

March 4, 2008



**TRANSCRIPT
March 4, 2007**

MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Michael Knapp, President
Councilmember Roger Berliner
Councilmember Valerie Ervin
Councilmember George Leventhal

Councilmember Phil Andrews, Vice-President
Councilmember Marc Elrich
Councilmember Nancy Floreen
Councilmember Duchy Trachtenberg



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1 Council President Knapp,

2 Alright. Good morning everyone. We don't have an invocation this morning but I would
3 ask you all, please rise and join us for a moment of silence and reflection. Thank you.
4 Turn to Ms. Lauer for General Business.

5
6 Linda Lauer,

7 Good morning. We do have a couple of changes. The HHS Committee for Thursday,
8 March 6, is cancelled. The Public Safety meeting from yesterday, we hope to, by later
9 today, know the details on how we're going to reschedule that.

10
11 Council President Knapp,

12 Good.

13
14 Linda Lauer,

15 Those are the only changes right now. There were several petitions received, one
16 supporting Call and Ride Program, the other one supporting Bill 02-08, Domestic
17 Workers, and the third one supporting preservation of Rachel Carson Meadow in North
18 Four Corners Park. Thank you.

19
20 Council President Knapp,

21 Very good. Thank you very much. Madam Clerk, do we have Minutes to approve?

22
23 Council Clerk,

24 Yes. The Minutes of February 11, 12, and 19th, 2008.

25
26 Council President Knapp,

27 Is there a motion?

28
29 Councilmember Trachtenberg,

30 So moved.

31
32 Council President Knapp,

33 Moved by Councilmember Trachtenberg. Is there a second?

34
35 Councilmember Andrews,

36 Second.

37
38 Council President Knapp,

39 Seconded by Council Vice-President Andrews. All in favor of the Minutes, please raise
40 your hand, indicating your support. Ms. Floreen and Mr. Elrich, Minutes? Okay. It
41 passes unanimously among those present. We now turn to the Consent Calendar. Is
42 there a motion?

43
44 Councilmember Andrews,



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1 So moved.

2
3 Council President Knapp,
4 Moved by Council Vice-President Andrews. Is there a second?

5
6 Councilmember Trachtenberg,
7 Second.

8
9 Council President Knapp,
10 Seconded by Councilmember Trachtenberg. I'm seeing a theme. Are there any
11 comments on the Consent Calendar? Seeing none, all in support of the Consent
12 Calendar please indicate by raising your hand. That is unanimous among those present.
13 Thank you. Moving right along. We turn to District Council Session, we have action on
14 Resolution to approve MCPB Regulation 08-1, Amendment to Rules of Procedure for
15 Conduct of Hearings. The PHED Committee recommends approval. I turn to the Chair
16 of the PHED Committee, Mr. Elrich, for any remarks he would like to make.
17 [INAUDIBLE] Hold on, turn. That's okay.

18
19 Councilmember Elrich,
20 We were supportive of the changes that came to us. They didn't seem to be major and
21 they were not controversial.

22
23 Council President Knapp,
24 Okay. Any other additional comments on? Ms. Floreen?

25
26 Councilmember Floreen,
27 I will just note that I don't think it is a proud moment for us when we have to have a
28 regulation that addresses how you correct a typographical error. And I guess this
29 confirms practice and common sense and the like, but I just must say that. This is detail
30 that I would hope that we don't have to linger on in the future.

31
32 Council President Knapp,
33 Well, and it is my hope that as we made changes as a result of the Clarksburg issue a
34 couple of years ago, and many of us knew that we would but there weren't any, there
35 were few alternatives in front of us at the time.

36
37 Councilmember Floreen,
38 Yeah.

39
40 Council President Knapp,
41 And so I think it is important as we see the practice of what that is that we work with the
42 Planning Board to make sure that we make the appropriate changes to actually
43 streamline the process while still providing the appropriate measure of accountability.
44 We will see.



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1
2 Councilmember Trachtenberg,
3 It is known as tweaking the process.

4
5 Council President Knapp,
6 That's exactly right, which we knew we would have to come back and do three years
7 ago when we passed the stuff that we did.

8
9 Councilmember Floreen,
10 Yeah.

11
12 Council President Knapp,
13 [INAUDIBLE MULTIPLE SPEAKERS] Agreed. I think the Planning Board would agree
14 with us as well. Okay, we have before us, Resolution on Regulation 08-1, Amendment
15 to Rules of Procedure for Conduct of Hearings and we have a PHED Committee
16 recommendation. All in support please indicate by raising your hand. That is unanimous
17 among those present. Thank you very much. We now, turn to introduction.

18
19 Councilmember Leventhal,
20 Mr. President? Could I be recorded in favor of the Consent Calendar please?

21
22 Council President Knapp,
23 Without objection.

24
25 Councilmember Ervin,
26 Same.

27
28 Council President Knapp,
29 Without objection. We now turn to Introduction of Zoning Text Amendment 08-03,
30 Reorganization by the Executive Branch, sponsored by the Council President at the
31 request of the County Executive. We have before us Action, Resolution to establish
32 public hearing April 8th at 1:30 p.m. All in support of establishing the public hearing, or
33 actually, I have to have a motion to establish the public hearing.

34
35 Councilmember Leventhal,
36 Move to establish a public hearing.

37
38 Council President Knapp,
39 Moved by Councilmember Leventhal. Second?

40
41 Councilmember Ervin,
42 Second.

43
44 Council President Knapp,



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1 Seconded by Councilmember Ervin. All in support indicate, it is unanimous among
2 those present. We now turn to Introduction of Subdivision Regulation Amendment 08-
3 01, Reorganization - Executive Branch, sponsored by the Council President at the
4 request of the County Executive.

5
6 Councilmember Leventhal,
7 Move to hold a public hearing.

8
9 Council President Knapp,
10 So noted. Moved by Councilmember Leventhal. Seconded by Councilmember Elrich. All
11 in support indicate by raising your hand. That is unanimous. We now turn to Legislative
12 Session day number seven. Is there a Legislative Journal to approve Madam Clerk?

13
14 Council Clerk,
15 Yes. The Legislative Journal of February 12, 2008.

16
17 Council President Knapp,
18 Is there a motion to support?

19
20 Councilmember Trachtenberg,
21 So moved.

22
23 Council President Knapp,
24 Moved by Councilmember Trachtenberg.

25
26 Councilmember Ervin,
27 Second.

28
29 Council President Knapp,
30 Seconded by Councilmember Ervin. All in support of the Legislative Journal, please
31 indicate by raising your hand. That is unanimous among those present. Introduction of
32 Bills, Expedited Bill 4-08 Reorganization - Executive Branch, sponsored by the Council
33 President at the request of the County Executive. A public hearing is scheduled for April
34 8th at 1:30 p.m. Okay. We are moving quickly. We turn to worksession of the FY09-14
35 Capital Improvements Program, Washington Suburban Sanitary Commission. We turn
36 to Chairwoman Floreen.

37
38 Councilmember Floreen,
39 Yes, indeed. If the Chair of the Commission and staff could come on up and take a seat,
40 that would be great.

41
42 Councilmember Berliner,
43 How many votes did I miss Mr. President?



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1 Council President Knapp,
2 A whole bunch.
3
4 Councilmember Floreen,
5 You might want to invite.
6
7 Councilmember Elrich,
8 You supported everything.
9
10 Councilmember Berliner,
11 I vote yes, right.
12
13 Councilmember Floreen,
14 If we could find.
15
16 Council President Knapp,
17 Okay.
18
19 Councilmember Floreen,
20 If we could find Mr. Levchenko, that'd be handy. I would like to welcome the hard-
21 working Chair of the WSSC here, Adrienne Mandel and thank her for her tremendous
22 service in her short time as Chair of an unwieldy environment that has been, I know,
23 demanded your best and I know you have given it to them. So, I thank you very much
24 for your service and also the new interim General Manager, Theresa, it is Daniel right?
25 Now, you have been there for long enough to know every nook and cranny of WSSC,
26 what two months?
27
28 Theresa Daniel,
29 Four months.
30
31 Councilmember Floreen,
32 Four months, no problem. Would you two like to make any opening comments before
33 we get into the budget?
34
35 Adrienne Mandel,
36 Yes. Good morning.
37
38 Council President Knapp,
39 Adrienne, if you would just, there you go.
40
41 Councilmember Floreen,
42 And if you could go down and introduce yourselves.
43
44 Adrienne Mandel,



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1 We certainly will introduce the staff. Thank you very much.

2
3 Council President Knapp,
4 Thank you.

5
6 Adrienne Mandel,
7 Good morning, President Knapp, Vice-President Andrews, Chair Floreen, members of
8 the Council. I am truly pleased to be here with you today. I am Adrienne Mandel, Chair
9 of the Washington Suburban Sanitary Commission and I am joined by our newly
10 appointed interim General Manager, Theresa Daniel, and our newly appointed interim
11 Deputy General Manager, Rudy Chao. Theresa will definitely introduce the rest of the
12 staff. On behalf of the Montgomery County Commissioners, I want to thank you all for
13 your encouragement and support during our budget deliberations. Special appreciation
14 to your excellent staff members, Steve Farber and Keith Levchenko, who were truly
15 instrumental in helping us move through these very delicate deliberations. So at this
16 point, it is my pleasure to turn over the microphone to our interim General Manager,
17 Theresa Daniel. Thank you very much.

18
19 Theresa Daniel,
20 Thank you Chair Mandel, and good morning, President Knapp, Vice-President Andrews,
21 Councilmembers, and it's a pleasure to be here this morning. Let me first quickly
22 introduce our Chief Financial Officer, Tom Traber. I think most of you know him. And our
23 chief engineer, Gary Gump. And of course you just met Rudy, our interim Deputy
24 General Manager. I just wanted to make a couple of comments about the CIP, just a
25 couple of points. First of all, of course, in terms of our infrastructure renewal, obviously,
26 we won't be initiating our increase for fiscal year '09, so that's been taken out of the
27 CIP. We'll be at steady state for executing 27 miles of the water mains and 51 for the
28 sewer mains as we have been. But of course, we feel that we will need to continue
29 looking for a way to fund the increase because of, the infrastructure renewal is still
30 obviously an important project and so, we will continue doing that and obviously that will
31 be talked about at the budget hearing, or the, your discussion of our operating budget.
32 The only other thing about the CIP that I wanted to mention today was, for the
33 Enhanced Nutrient Removal Program, it's 100% funding assumed in our CIP, but not
34 assured, as you know, because the state projects outnumber the funding, is more than
35 the funding. But we are of course continuing negotiations on that, hoping to get 100%
36 funding. Other than that, that is the only comments I, those are the only comments I
37 have about the CIP.

38
39 Councilmember Floreen,
40 Okay. Thank you very much. I think it is important for us all to remember we are just
41 dealing with the Capital Improvements Program for WSSC. We are not addressing
42 things like the rate increase issue or the ready to serve charge that we took up
43 previously, as has been noted and as Keith's packet indicates. The Commission did
44 resolve the other day to advance, I think it's an 8% fee increase, but that is not before



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1 us. That's a separate conversation. And I will also note that WSSC, unlike us, at least at
2 this point in time, does not address maintenance and replacement of, at least of their
3 mains and pipes in the CIP in the same way that we do. So the issue that was referred
4 to in terms of their ready to serve charge, which some of you will recall was designed to
5 put them in a place to keep their pipes in working order and meet some important
6 sustainability objectives, is not really before us today. And I do think we need to engage
7 in a collective conversation over the best location for that conversation. Maybe it should
8 be brought back to the CIP. I don't know. Clearly we have significant community
9 concerns with rising prices of everything these days. And we also have the inevitable
10 consequences of not taking aggressive action to support infrastructure for water and
11 sewer. So that conversation is obviously continuing. And I'll just note, although it would
12 seem like it should be in this context, it's not today. So that is what makes this an easy
13 budget, because we are not dealing with the hard things. And our recommendation,
14 basically, is to support the County Executive's recommendations and WSSC's
15 recommendations on all the elements of the budget. There is a significant amount of
16 detail in the packet. I'd be shocked if, if anyone has any questions, I would encourage
17 you to simply raise them as we go through. But our main recommendations are
18 identified on the first page of the packet in bold and as the summary on page 14
19 indicates, we are recommending that we revise the Blue Plains PDFs based on the
20 County Executive's recommendations, this has to do with the nutrient removal issues.
21 We concur with WSSC's recommendation of maintaining the SDC charges, fees at
22 current levels but to increase the maximum charge ceiling consistent with state law to
23 allow them some flexibility that maybe part of a later conversation as well for funding
24 significant capital projects here. And then support their position in all the other projects
25 in the proposed CIP. Basically, there is an issue that will be interesting for us to address
26 which is the Potomac Submerged Channel intake project. Once they've completed their
27 feasibility study, we will be looking at that, but it's not before us yet. That is the kind of
28 thing that generated significant controversy in Virginia. Luckily, we though own the
29 Potomac to the Virginia side, so we have more control of it. And no doubt the same
30 amount of scrutiny will be applied to our initiatives. And there are funding issues, with
31 respect to the nutrient removal project as was just alluded to. And we will have to get
32 back in some environment and we'll need to talk about that, the best environment for
33 looking at the reconstruction effort for water and sewer pipes. And I just have to say
34 preliminarily, you know, there's only so long we can all delay this. And I do appreciated
35 that Montgomery County Commissioners have been strong on this and that the issue is
36 really how you pay for, I don't think Prince George's has been any less concerned about
37 it. It is just a question of how we pay for it. Nobody, people are not going to be able to
38 function without reliable water and sewer sources, period, end of story, forget about
39 economic development, forget about whatever initiative that anybody here is interested
40 in, if we can't ensure reliable access to basic services. So, with that, I am going to turn it
41 over to Keith and Keith, you can, may I suggest you just sort of briskly move the Council
42 through the details of all of this.

43
44 Keith Levchenko,



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1 Okay.

2
3 Councilmember Floreen,
4 Unless there's a clamor for more information.

5
6 Keith Levchenko,
7 I just do want to note that I have got the schedule for the review process for the CIP in
8 the operating budget on page two of the packet. A special note, we do have the bi-
9 county meeting on May 8th, where the two Councils will get together and resolve any
10 differences they have with the WSSC budget as well as Park and Planning and the
11 Washington Suburban Transit Commission. So, that is the one unique aspect of this
12 budget that you don't do obviously with County government or schools.

13
14 Councilmember Floreen,
15 That will be where?

16
17 Keith Levchenko,
18 It's, Prince George's, the Prince George's County Council is hosting this year. Last year
19 we hosted at WSSC and we are hoping they will agree to host at WSSC as well.

20
21 Councilmember Floreen,
22 Okay. That was good.

23
24 Keith Levchenko,
25 I don't know if we have heard definitively yet.

26
27 Steve Farber,
28 No, I have been in touch with my counterpart, Craig Price, and as Keith said, we would
29 like to have the meeting at WSSC if possible.

30
31 Council President Knapp,
32 Steve, if you'd just remind me, I can place a phone call to Chairman Dean so we can
33 follow-up on that.

34
35 Keith Levchenko,
36 As Ms. Floreen mentioned, taking out the issue of the infrastructure renewal regarding
37 the water and sewer main replacement, what you have left in the CIP is, basically, a lot
38 of your aboveground infrastructure. And it takes the form of three categories that WSSC
39 likes to use, growth projects which are funded either by developers or through SDC,
40 environmental regulation, or responses to environmental regulations as well as system
41 improvements. And what I have included in the packet are some of the projects that
42 have been of interest to the Council in the past or are ongoing and are significant
43 projects that are occurring to the Council. We can go over those briefly when we get to
44 them. I have also included, on page three and four of the packet, some of the summary



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1 information. On page four, I think it is helpful to note the breakdown of the WSSC CIP
2 by funding source. Although, the majority of it is WSSC bonds, you can see that they do
3 have a significant contribution from SDC, that is the growth projects, and contributions
4 from developers for the growth projects. So that is a significant funding source that
5 helps reduce the bond requirements for the CIP. There is also assumed to be additional
6 state money related to the flush tax which would cover the Enhanced Nutrient Removal
7 Projects, which we are including in this CIP, but which still in some cases require
8 approval by the state before they can go forward with the state aid we are assuming.
9 So, that is why you see also that bump up in that federal and state grant bar. And just to
10 briefly go over a little bit the Executive recommendations that Councilmember Floreen
11 mentioned, each year, we do have revised, the benefit of revised numbers for the Blue
12 Plains projects that we contribute to. By this time we have information that is more
13 certain than the information that WSSC has when they first put together their CIP in
14 August and September of, in this case, 2007. So, it is common to include those updated
15 numbers as part of our recommendation. In addition to that, the Executive is
16 recommending showing some substantial increases in state aid for the ENR projects at
17 Blue Plains. And so that is significant here as well. That is consistent with our approach
18 that the state should be paying the eligible costs for those projects, but there is nothing
19 certain.

20
21 Council President Knapp,

22 So, and on that point, we have to have the conversation on the education front, while
23 we assume that, what's the likelihood of us actually seeing that revenue?

24
25 Keith Levchenko,

26 Well, I think we will see some level of it. It is under negotiation. As with every project,
27 the state will, you know, vigorously review every piece of it and component of it to make
28 sure that they are paying what they should be paying and not a penny more than they
29 think they should be paying.

30
31 Council President Knapp,

32 Does that come through in the governor's capital budget or where does that, how does
33 that get addressed in the state budget?

34
35 Keith Levchenko,

36 Well, it is part of the Bay Restoration Fund.

37
38 Council President Knapp,

39 Okay.

40
41 Keith Levchenko,

42 I don't know how it is reflected specifically in the CIP. It is something that the Maryland
43 Department of Environment administers throughout the year. So I think they have a set
44 appropriation that they then tap into as the projects are approved.



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1
2 Council President Knapp,
3 Okay.

4
5 Keith Levchenko,
6 I have noted, starting on page eight.

7
8 Councilmember Floreen,
9 Before we get to that, I will just note for the Chair and interim GM for WSSC, I would
10 ask, Keith notes in the memo on page seven, that I had asked in committee whether we
11 should revisit the scope of the Service Development Charge. I believe that is a state law
12 issue. It is periodically adjust, I think there's a new change, forget if there is a change
13 this year, I think there is one. I know that Prince George's has looked at that and
14 advanced some changes to that in the past and I do ask, suggest that we put on the
15 table some thinking about that, if that is a way to address some of our maintenance
16 needs as well, as well as how we allocate costs for small new projects. We have got a
17 couple of situations of failing septs in various parts of the County and no doubt Prince
18 George's has that too. We are, the, it is such a small neighborhood that people, they're
19 within the sewer envelope, but they cannot afford the extension. I think it's in
20 Clarksburg, when we had quite a poignant story there.

21
22 Council President Knapp,
23 Green – Estate. We actually have part of the community here represented today.

24
25 Councilmember Floreen,
26 Yeah. We have quite a poignant situation there. Oh. Hi. You are here?

27
28 Council President Knapp,
29 They're here.

30
31 Councilmember Floreen,
32 You didn't even have to ask me to ask that question. And I do think we need to figure
33 out a way to make these kinds of solutions available to small communities, where you
34 are not talking about major development initiative, you are talking about just regular
35 folks who have very few options. And I would ask that you put those kinds of thoughts
36 on the table for conversation. I don't have a clue what the answer is, but I do think that
37 given our competing demands on the average ratepayer, we are obviously going to
38 need to look at other ways to finance what we should be financing, what we have public
39 health issues, and also the larger issue, perhaps at least, of maintenance and
40 replacement. So I know that there have been debates about this and there's plenty of
41 history, but we are all new. So, I suggest we start thinking again about how we, about
42 whether at least this, this identified funding source is one issue to reexamine.

43
44 Council President Knapp,



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1 I would add to the Chair's comments, I was going to raise that as well, we have been
2 going back and forth with the previous General Manager, at least looking at various
3 funding alternatives, and I know the community is in receipt of some feedback from
4 WSSC as to some different alternatives. We have also had conversations at the state
5 and federal level because, one of the challenges has been, especially at the federal
6 level, resources exist, but typically they exist for small municipalities and not necessarily
7 small communities. And so, all things being equal, if you look at the definition, some of
8 these communities would theoretically be eligible for funding, but for the fact that they're
9 not a municipality, they're just a community. And so we need to explore some different
10 alternatives there to figure out because there are a number of communities that were
11 built prior to water and sewer being extended, they're inside the water and sewer
12 envelope, just, it's how do you go back and kind of retrofit? And as we're looking at how
13 we do infrastructure more broadly, this seems to be a logical thing to try and roll into
14 that discussion. And I believe there is a meeting this afternoon with my staff and some
15 other folks in the County Departments to look at what is the scope of that so we can
16 actually put together some information for our federal legislators so that they can at
17 least submit it for the annual budget submission for them to take a look at as congress
18 deliberates over this as well. So, we are trying to find resources wherever we can but it
19 is not a simple solution and once you have done it once, you kind of are down the road
20 to do it for a lot of folks who need to understand the magnitude of it and see if there are
21 some other unique ways to try and address it. But we've got to, work very closely with
22 WSSC and the County to try and come up with some alternatives, it's just a matter of
23 coming up with the right model.

24
25 Councilmember Floreen,
26 Perhaps Keith, we could schedule this as a follow-up session with the WSSC to
27 continue the conversation with a couple of experts in the field as to an approach to be
28 taken if it requires, obviously it would require state legislation and it is good to talk about
29 this way in advance so you can start sorting of, you know, what the kinds of issues are
30 likely to be. We thank you.

31
32 Keith Levchenko,
33 Regarding the septic issue, we expect to take that up within our own context of our
34 water and sewer plant.

35
36 Councilmember Floreen,
37 Yeah.

38
39 Keith Levchenko,
40 So that it'll definitely come up within that because we have both issues of the fact that
41 we have a number of, you know, large number of septic systems in this County and not
42 a whole lot of information on the condition of those systems.

43
44 Council President Knapp,



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1 Right.

2
3 Keith Levchenko,
4 And ongoing maintenance issues with those in addition to the issue of wanting some of
5 those to convert over to public sewer.

6
7 Councilmember Floreen,
8 Well, right and the environmental implications of failing septic systems are not inconsiderable,
9 yeah.

10
11 Keith Levchenko,
12 And then with regard to the SDC, we have seen legislative issues each year generally
13 focusing on the exemption process and trying to broaden the exemptions. Prince
14 George's County has .

15
16 Councilmember Floreen,
17 Yeah, that's right.

18
19 Keith Levchenko,
20 Offered a number of those over the past several years, one of which was approved last
21 year. The actual scope of the charge has not been changed.

22
23 Councilmember Floreen,
24 No.

25
26 Keith Levchenko,
27 As far as I can tell since it was approved.

28
29 Councilmember Floreen,
30 Yeah.

31
32 Keith Levchenko,
33 That would likely be much more controversial to broaden it beyond new development.

34
35 Councilmember Floreen,
36 Well, if it were easy, if it were easy Keith, they would have done it.

37
38 Keith Levchenko,
39 But it is certainly something to look at in the mix of how we will fund water and sewer
40 main infrastructure replacement.

41
42 Councilmember Floreen,
43 So, just highlighting this issue that's, it's one that is going to lurk in the background of all
44 these conversations. Thanks. Okay.



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Keith Levchenko,

Yeah, starting on page 8 of the packet. I have a number of projects that are of interest to both Councils, and certainly our Council, and I won't go through the details of all of these. I just will note that WSSC is still continuing its master planning process to deal with its infrastructure. What we focused on in the past year was basically the first phase of that work which identified broad spending areas and overall needs but did not get into the specific assets. They plan to do that over the next several years. I've noted some of the milestones here. And that information obviously will lead to, most likely to future capital requests. But I will say that the initial report did find that, in general, the aboveground infrastructure is in pretty good shape or is programmed in the CIP. So, for instance, the Potomac Water Filtration Plant, which has some capital needs to it, also has a number of projects that will be completed over the next six years to deal with that, same with the Patuxent Plant. So from the aboveground infrastructure standpoint I think we are in pretty good shape. There are some areas that we will need to look at. But a lot of the backlog, per se, appears to be in the belowground infrastructure. And that's what we were talking about with regard to the infrastructure.

Councilmember Floreen,
Right. Right.

Keith Levchenko,

There are a couple of new projects I noted at the bottom of page eight. These are relatively small projects. But they do, Councilmembers will hear about them, especially, for instance, the Shady Grove Standpipe Replacement Project. As with any water tower or standpipe issue, location is a big deal. It has to work from an engineering standpoint but also there are community impacts that WSSC has to carefully work through. So, depending on where that facility ends up, the Council may hear some feedback from the community. So just to let you know, that is sort of in the initial stages now. Another project that's moving along is the Laytonsville Elevated Tank and Pumping Station Project. This stems from Council approval several years ago to provide water to the town. There was both a water quality issue there as well as an expectation that because of the makeup of the town and the extremely small lots, that the water being provided to the town would assist a number of areas of the town in dealing with what could be, down the pipe, literally, some septic issues. And to the degree you have public water, that does provide a little bit more flexibility in terms of siting and dealing with septic issues. And there is also some development within in the town that is helping to pay for this project. So, we were able to several years ago negotiate the capital cost to be covered by the developer and by SDC. The status of the project is listed here for your information. The ENR Projects, that's the Enhanced Nutrient Removal Projects that we talked about briefly, I have a chart on page 10 of the packet which shows the costs for the facilities both within the WSSC service area as well as the Blue Plains projects. The Blue Plains projects at this point are just in planning but we expect those numbers to get much bigger, much, much bigger, as they define those projects. But you can see,



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1 depending on the waste water treatment plant you're talking about, they can be very
2 substantial numbers especially with a couple of plants in Prince George's County. So,
3 those are projects we have in the CIP. They're negotiating with the state of Maryland
4 now. Generally Maryland, the state has agreed conceptually to the funding of the ENR
5 costs of these projects, it is a matter of defining what those total costs will be and
6 delineating the ENR costs versus the other system improvements that may be going
7 along with those and how much the state is willing to pay for those which have to be
8 done at the same time. So, there is a negotiation that has to occur with that.

9
10 Councilmember Floreen,

11 A point that Keith has just raised, I just noted for Mr. Orlin sitting back there, I don't
12 know how WSSC's facility planning, CIP, is the same or is consistent with or different
13 from how we do it. No doubt it is different. So I just note that for our later conversation.

14
15 Keith Levchenko,

16 I noted the Potomac projects earlier and I have a list of these, summary of these
17 projects. Suffice it to say that there's a lot of work going on there and that over the next
18 several years, we will be addressing a lot of the maintenance for ongoing issues there
19 as well as taking a look ahead at future capacity needs. The Submerged Channel Intake
20 Project which Ms. Floreen mentioned, initially we thought this would have come back to
21 us much sooner but it has had a number of delays and logjams related to it and it is now
22 not expected to come back to us for another couple of years, so there will be plenty of
23 time for us to deal with that later. As Ms. Floreen mentioned, the County of Fairfax did a
24 project several years ago that had some controversy to it as well so we will just have to
25 see how this goes along. It also has, because it involved National Parks Service
26 property, it's got a lot of review processes in it beyond just our own that are extending
27 the time period. Another important project that the WSSC is moving along with is the,
28 noted on the bottom of page 11, the Bicounty Water Tunnel, this project is a.

29
30 Councilmember Floreen,

31 You might explain to folks where this is going exactly.

32
33 Keith Levchenko,

34 It's, well.

35
36 Council President Knapp,
37 By block.

38
39 Councilmember Floreen,
40 Yeah.

41
42 Keith Levchenko,



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1 It's an 84 inch diameter water main which will start near Tuckerman Lane and 270 and
2 extend to near the Mormon temple in Kensington. So, it is a very substantial project
3 however, most of it will be unseen. It will be underground, deep tunneling.

4
5 Councilmember Floreen,
6 Underneath Rock Creek mostly.

7
8 Council President Knapp,
9 Right.

10
11 Keith Levchenko,
12 What we will be seeing are the access shafts. There will be an access shaft on each
13 end as well as one between the two. And that's where the majority of the activity will be,
14 the truck traffic, the construction et cetera, and that is the work that WSSC has been
15 going over carefully with a citizens advisory group at all of those locations.

16
17 Adrienne Mandel,
18 Madam Chair?

19
20 Councilmember Floreen,
21 Yes.

22
23 Adrienne Mandel,
24 Before we move from these aboveground projects, I would like one of our staff
25 members to address the fact that an additional CIP item does have the Olney standpipe
26 and the Olney community has been very interested and active in that as well. So you
27 might want to add that to the list of those projects already approved.

28
29 Council President Knapp,
30 Right.

31
32 Councilmember Floreen,
33 Okay.

34
35 Adrienne Mandel,
36 Anybody want to add anything on Olney standpipe?

37
38 Unidentified
39 Only that it is going into the design phase.

40
41 Council President Knapp,
42 That will be located.

43
44 Councilmember Floreen,



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1 Yeah.

2

3 Unidentified

4 That hasn't been determined yet. They are still working that.

5

6 Council President Knapp,

7 Okay.

8

9 Councilmember Floreen,

10 Well no doubt we will start hearing from it.

11

12 Council President Knapp,

13 Sure.

14

15 Councilmember Floreen,

16 About it more once that location is identified.

17

18 Keith Levchenko,

19 I am sorry. Actually, Councilmember Berliner mentioned another project that's been of
20 interest of the Council over the past several years, which has to do with odor issues
21 related to the Potomac Interceptor. And several years ago some stopgap measures
22 were done to try to address it, address some of the issue in the short term, which they
23 strategically located some sort of gel products that would help offset some of the odor.
24 But the long-term solution is an improvement to the Potomac Interceptor itself. That has
25 been languishing somewhat in debate at Blue Plains or with WASA. The project was
26 originally overseen by COG. And I think it is still in the design phase and design
27 approval phase although WSSC can probably provide a little more information on that
28 today.

29

30 Councilmember Floreen,

31 Overseen by COG?

32

33 Keith Levchenko,

34 The contract was overseen by COG, yes.

35

36 Councilmember Floreen,

37 They don't, really?

38

39 Keith Levchenko,

40 Because it involved Virginia, it involved not just WSSC, not just WASA, but it involved
41 Fairfax and other jurisdictions that utilize the Potomac Interceptor.

42

43 Councilmember Floreen,

44 Really? Well, Mr. Knapp will have to keep us posted.



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1
2 Council President Knapp,
3 I'll have to follow up on that. Okay. Mr. Elrich.

4
5 Councilmember Elrich,
6 I was kind of curious when you were talking about, I guess it was Laytonville, and
7 extending sewer areas that are going to have failing, anticipate failing septic down the
8 road. How are decisions made about where that is done and where it's not done and
9 when is it funded out of SDC and then when is it, when do you just simply present it to
10 people that if you want to have it, you have to pay for it? How do we?

11
12 Keith Levchenko,
13 A growth project is eligible for SDC funding. Growth does not necessarily mean a new
14 development. It can be an existing development that hooks up to WSSC for the first
15 time or it's gets extensions and hookups for the first time. Those projects would have to
16 pay an SDC fee when they hook up whether they are existing homes or whether they
17 are new homes being built by a large developer.

18
19 Council President Knapp,
20 One of the things as relates to the Laytonville, kind of was a confluence of activities all
21 at the same time, it was a small development right inside the municipality. The
22 municipality had had a series of failing septic systems in the community that had
23 already been resited to a number of different places within properties so there was
24 really no place else left to go. So you also had a municipality. So the municipality had
25 some resources to bring to it. So, it kind of brought between the County, the
26 municipality, the developer for the small project, and then the health need as a result
27 kind of brought all those elements together all at the same time which kind of made that
28 project work, not without significant consternation and much, much negotiating.

29
30 Councilmember Elrich,
31 So, but is the essence of it that a line was going to go by these houses anyway and so,
32 the hookup was, they were not required to do massive extension just to deal with the
33 houses or both things involved.

34
35 Keith Levchenko,
36 The extension still has to, the extension itself is not a capital project, or the mains that
37 would go by the homes are, is not part of the capital project. The capital project is
38 providing the elevated tank and the pumping station, the capital infrastructure. The
39 mains themselves are still financed the way all the mains are financed which is through
40 the homeowners paying the deficit charge related to the extension costs and the fund
41 for benefit charge revenue from that.

42
43 Councilmember Elrich,
44 What are the charges going to be out there?



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1
2 Keith Levchenko,
3 You mean per home?

4
5 Councilmember Elrich,
6 Per home right.

7
8 Keith Levchenko,
9 I don't have the numbers in front of me but the initial charge, the hookup, the front for
10 benefit, the share of the deficit charge, it is fairly substantial. It's going to be in the, just
11 off the top of my head, a homeowner could typically pay 10 to \$15,000 just for the
12 hookup costs, SDC, and some other things, not counting whatever the deficit charge
13 might be depending on the extension length that they would be participating in paying
14 for.

15
16 Council President Knapp,
17 Depending on where you are and how far you are from where the hookups might be
18 and the size of your property, I've heard costs and charges anywhere from about
19 \$15,000 to upward to \$120,000 per home on average.

20
21 Keith Levchenko,
22 Now, these properties in Laytonville will, are eligible for a health hazard subsidy which
23 helps defray a portion of the cost. Because the whole area was identified as a public
24 health problem area. So that helps them somewhat. But certainly the town is familiar
25 with these costs as was the developer who is helping fund the capital project. So, as Mr.
26 Knapp mentioned, that's why it was able to move forward, because all the parties were
27 able to come to agreement on the financing.

28
29 Councilmember Elrich,
30 And do you have to have failure of the septic before you can qualify as the health?

31
32 Keith Levchenko,
33 Well, this is a water issue, so they're not necessarily having septic failures. But they are
34 linked, to the degree you have wells on a site, it can be more difficult to locate septic
35 fields and vice versa. So, if you deal with the water issue you are at least indirectly
36 assisting on the septic side. But yes, in terms of the area being identified, there had to
37 have been failures in the area that were documented by our Department of Permitting
38 Services.

39
40 Council President Knapp,
41 Failing septic is, it kind of opens one door. We had this issue in Damascus where we
42 had an entire neighborhood that had failing septic fields and they were eligible, but even
43 then the costs were significant. And so the way we actually ultimately got theirs
44 addressed was there was a development occurring on the other side that as we redid



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1 their master plan we managed to come up with a way to link them up with the developer
2 on the other side so it was kind of consumed into that next project. Because quite
3 obviously, even though they all had failing septic fields, they all had the health hazard
4 assessment, everything was done right, it was still cost prohibitive for that community to
5 move forward individually.

6
7 Councilmember Elrich,
8 I'm trying to filter this in terms of what I have heard about Clarksburg and the historic
9 area there.

10
11 Councilmember Floreen,
12 Well, in any event.

13
14 Councilmember Elrich,
15 Oh, Roger, I'm sorry.

16
17 Councilmember Floreen,
18 Let me just say that each case tends to be unique and the more complicated ones do
19 come to us for conversation. We certainly had that with the water issue in Prince
20 George's which was a major source of some conversation several years ago. So
21 community issues evolve and depending on the level of change in policy or solutions,
22 we do see that in the course of events. If it's a, I don't know what the threshold is, but
23 it's a significant issue.

24
25 Council President Knapp,
26 Mr. Berliner?

27
28 Councilmember Berliner,
29 I just wanted to return to the lovely odor issue and it is an issue where constituents of
30 mine have come to me repeatedly with respect to the odor problem along the C&O
31 Canal. They made a presentation to me that suggests that this is something that is a
32 very close to, is a handle able problem, that's something we can in fact address, that
33 there are documents that have been submitted to you and to the National Park Service.
34 I understand that this is a complicated situation but one that really requires a driver
35 internally to make this happen. It isn't a big deal but it is a big deal to the constituents
36 who live along that area and who frequent the C&O Canal because it is a bad odor. This
37 is not exactly the experience one wants to have if you're walking along the C&O Canal
38 or living next to it. So, my understanding is that this is imminently manageable, it's
39 complex, it requires a driver inside to make this thing happen. So I would be grateful,
40 one if staff could, in our documents, the extent to which we can request that this be
41 given a higher priority. I would make that request and I would ask you folks to get back
42 to us with your understanding of where this stands so that I can be responsive and we
43 can be responsive to the community members that feel like there is really no excuse for
44 having this kind of situation. And it has gone on a long time.



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1
2 Council President Knapp,
3 Okay.

4
5 Adrienne Mandel,
6 Please be sure that we'll work with the COG President and the multi-jurisdictions and
7 we will address it.

8
9 Councilmember Berliner,
10 I feel better already.

11
12 Council President Knapp,
13 The COG Chair's got to find a copy of that contract somewhere. Okay. Where are we?

14
15 Councilmember Floreen,
16 So, we're.

17
18 Keith Levchenko,
19 I think that was.

20
21 Councilmember Floreen,
22 Pretty much.

23
24 Keith Levchenko,
25 Summary of the projects, major projects, unless there are any other questions.

26
27 Councilmember Floreen,
28 Yeah. And with that, that's the Committee's recommendation.

29
30 Council President Knapp,
31 Okay. Are there any other questions or any concerns with the Committee
32 recommendation? If not then the Committee recommendation stands and moves
33 forward.

34
35 Councilmember Floreen,
36 Thank you.

37
38 Council President Knapp,
39 Thank you very much Madam Chair.

40
41 Adrienne Mandel,
42 Thank you all for your consideration.

43
44 Council President Knapp,



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1 Thank you Madam Chair and.

2
3 Adrienne Mandel,
4 The needs of our shared constituencies.

5
6 Council President Knapp,
7 And thank you very much, both of you and good luck in your new position and don't
8 hesitate to call if we can be of assistance. Thank you.

9
10 Councilmember Leventhal,
11 Adrienne, we really appreciate your service over here.

12
13 Council President Knapp,
14 Okay. We now turn to Agenda item nine. We are a couple minutes late. This comes out
15 of a number of conversations I have had with many of my colleagues, who through the
16 discussions of CIP in the various Committee meetings have commented that there is
17 kind of a mishmash of policies as to, what does it mean when a project is included
18 within the CIP? And to try, and I will put the biggest caveat out there, which is, and they
19 teach this in law school which I guess is a problem since I didn't go to law school, is you
20 don't ask a question unless you know the answer.

21
22 Councilmember Floreen,
23 That's very true.

24
25 Council President Knapp,
26 So, I don't know the answer to this question but we're putting it out there because I have
27 heard enough people comment on it that we wanted to at least have a discussion before
28 the full Council started to look at the full CIP as to what are the principles that we as a
29 Council may want to look at? And so, my Chief of Staff, Joyce Furman, working with a
30 number of Council staff on the fifth floor, went through and tried to see if there were
31 some elements that could be laid out and this is only a straw man for folks to look at
32 because it's usually easier to respond to something than to try and make it up from
33 scratch on the fly. And so, this is a starting point for a discussion. People may like it.
34 People may not like it. Either is fine. But it was really an opportunity to see, are there
35 some things that we want to look at, or some overall themes that we want to incorporate
36 into our assessment as to what projects go into the CIP and at what levels, be they for
37 planning and design or for full construction or does the Council as a whole not mind the
38 way that things are currently in the CIP and is happy being able to articulate what that
39 is, as long as a project is in the CIP that that provides a level of assurance to
40 Councilmembers and to the community and is that sufficient? But it has come up
41 enough different times I thought it would be worthwhile for us to at least to have it as a
42 dialogue. If we can reach a conclusion, great. If we can't, we will at least talk through
43 the pieces and the Councilmembers will know where their colleagues stand so as we
44 start to do this assessment people will have a, at least a better understanding of where



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1 other Councilmembers are as it relates to the inclusion of projects within the CIP. So
2 with that I was going to turn it over to Mr. Orlin to at least kind of walk through some of
3 the pieces that we've laid out here just for some background. He has three different
4 memos he's included. And then the other element that I have asked him to lay out for us
5 as well is the interim feedback on the infrastructure taskforce, to make sure that people
6 have that context. About three years ago the Council had put that together and given
7 some assessment as to where is the funding of our ongoing infrastructure. And as we
8 all know, ongoing infrastructure is rarely as sexy as new projects. And so I want to make
9 sure that we as a Council had some understanding as to the status of the existing
10 infrastructure contributions and how we're doing on that, so we have that in context
11 before we start looking at the full Council CIP as well. So with that, Dr. Orlin if you would
12 kind of walk us through some of pieces that we've laid out here.

13
14 Glenn Orlin,

15 Sure. Sure. Just one more piece of the overview if you will. These pPrinciples are really
16 geared towards the readiness for a project to be put in the CIP and to what degree. It
17 has nothing to do with what your priorities are in terms of what type of project is more
18 important than another kind of project. It's just whether a project is ready. The Executive
19 actually talks about this, or the CIP talks about this in chapter four, in the middle of the
20 cover page, past CIP practices of programming notional projects or placeholder costs
21 with details to be worked out late are now discouraged. Instead, facility planning,
22 generally that phase of work between strategic planning and budgeting is strongly
23 encouraged, large or complex projects may be included in the CIP with funds for design
24 only to allow further clarification of project costs prior to concluding construction costs in
25 the CIP. This wasn't followed to the letter by the Executive in the recommended CIP.
26 There are exceptions to this in the zone recommendations but he is laying out the
27 principle here. I think it would be useful if the Council did develop Principals even if
28 there are exceptions to it, at least you are recognizing that it is an exception rather than
29 feeling that you're sort of making sort of decisions ad hoc or hodgepodge. With that, let
30 me just sort of go through the.

31
32 Councilmember Leventhal,

33 Quick question on that Glenn. Could you point us to the page in the CIP that you were
34 quoting from?

35
36 Glenn Orlin,

37 Page 4-1, volume one. It's in the, it quotes in the cover memo but if you look in the, the
38 fourth tab in volume one under called CIP Planning, and its under Readiness for
39 Programming in the first column about halfway down. There is actually also language
40 which is to the point on the next page, Mr. Leventhal, 4-2, under Facility Planning, under
41 the Readiness for Programming section there which is of interest. But it more or less
42 says the same kind of thing. In terms of the principles, and again, this is the starting
43 point, there are three different kinds of projects really in the CIP, one which we are not
44 really talking about here except later about the infrastructure maintenance, are level of



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1 effort projects. HVAC replacement, PLAR, regular amounts of work in all the agencies
2 to replace what is there that has to be replaced, but also things like the annual sidewalk
3 program which is a program to build a lot of smaller sidewalks. Those are not covered
4 here. These are really more dealing with stand-alone projects, projects which have a
5 beginning, and then an end and then the project disappears. And there are two basic
6 types, there are building projects, whether it's a library, police station, school or anything
7 else like that. And there are projects which deal with the land and longer stretches of
8 projects. Primarily we're talking about transportation projects but really could be talking
9 about certain WSSC projects and even some park development projects but we're
10 talking here mostly about transportation. For the transportation projects, our
11 recommendation to you is pretty clear, it is actually confirmed by the OLO study and it's
12 what we've been trying to do really consistently for the last 16 years, which is that we
13 have a defined process for facility planning. There's two phases of it. The first phase is
14 conceptual planning, we look at alternatives. The second phase is, you take one or
15 maybe two of those options and you look at them in extraordinary detail so that the end
16 of the second phase, a citizen knows precisely what the impact is going to be on his or
17 her property, fairly well knows the impacts on his or her property, knows what the
18 benefits are going to be, what the environmental impacts are going to be, and you have
19 a pretty fair idea of what the cost is going to be without, not including what might
20 happen over the next few years in the way of construction costs and inflation. If steel
21 from China goes up by a lot or drops, there is really no good way of predicting that, but
22 in terms of developing the cost based on a detailed scope, knowing how much earth is
23 being moved, knowing whether or not there's going to be retaining walls, knowing where
24 the storm water management facility is going to be, and how extensive that is going to
25 be, is all decided in the second phase of facility planning. And so you have a good cost
26 estimate for that. And so we would say don't fund a project for construction or even
27 design, detailed design in the CIP until phase two of facility planning is complete or
28 within a, you know, literally a few weeks of being complete. When you have made a
29 decision for a transportation project based on facility planning to fund it, there is really,
30 as much as there is a break point anywhere in the design process or development
31 process from the beginning of the idea all the way to completion, the best place to draw
32 that line is between the end of facility planning and the beginning of design. In other
33 words, you could have a two week, not two week, few month split between facility
34 planning and the beginning of design, you could have a several year gap between the
35 two and that would be legitimate. So you may decide at the end facility planning phase
36 two, yes, this is good project, we want to do it, but in terms of priorities, vis-a-vis other
37 projects, you might want to say well, but we want to start this project three years from
38 now, we will start design then and it will be delivered later. That is a legitimate decision.
39 You know, think in terms of, you shouldn't automatically assume that just because
40 facility planning is finished, you have got to jump right into design. Because frankly you
41 can't afford to do that in everything, there's just no way. We'll talk about the reserve
42 later. I think that is it really for the transportation projects. The building projects, we have
43 always had more of a struggle with this because the facility planning definition for
44 building projects, whether we're talking about schools or County government or fire



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1 stations or any one of a number of other ones, usually only covers the program
2 requirements. It says, you know, this is how many rooms we want to have with functions
3 we want to have in the building, which is always the first step, you have to do that but it
4 really doesn't tell you anything about what the cost of the project is going to be because
5 you don't really at that point necessarily know even where it's going to go and you have
6 to design a project to the site. And depending upon the uniqueness of the building, if it is
7 a building which is replicated a lot like a school, it's a lot more predictable than a fire
8 station or police station or a library or rec center even. So the challenge has been how
9 much of design do you do before the Council commits to a project? Because you want
10 to be able to say no or you want to be able to say yes but change course early enough
11 so that you are not committing lots of funds and maybe even more important, a lot of
12 time to a design which you then are going to have to backtrack and lose time over. How
13 do you deal with this? We've had a lot of discussions over the years about this. And the
14 one we are suggesting here, and it's really ripe for discussion is, to fund a building
15 project that you think after the POR you want to go forward with, which most cases you
16 probably will, and fund it through the third or fourth stages of design called design
17 development. And I describe on the top of page three what the four levels of design are,
18 conceptual design which is really just bas, not much more than the POR, schematic
19 design where you've laid out a fairly detailed layout of what the facility will look like but
20 you still haven't done anything in terms of determining the materials, the room finishes,
21 how the access is going to be created, how much earth is going to have to be moved,
22 this sort of thing. Design development gets you almost all the way there. You have
23 heard probably from DPWT that that is the level of detail they want to be able to do
24 before they give you a good cost estimate. What we are suggesting is sort of a mixture
25 thing, is that for a new project coming forward that goes into design, that you fund it
26 through design development, but that the Committees of jurisdiction take responsibility
27 to review those projects after schematic design to basically indicate to the Executive,
28 proceed as you are doing, no, we don't want this project anymore, the impacts are just
29 too great and it looks like it's going to be too costly, or more likely, most of the time it's
30 going to be, we'll proceed but change the course a little bit, maybe reorient the building,
31 maybe deal with some issues that citizens have brought up, change the size of it,
32 whatever. And so that is really what we are suggesting on the building projects. But
33 don't program for construction until at least you have got the good cost estimates and
34 the scope that comes out of design development. Just a couple other background things
35 and then we should sort of go to discussion. Let me skip to the issue of the reserve
36 because it's come up a lot. This question came up exactly two years ago and there was
37 an analysis I did back then which is on circle seven through 10, where I looked at all the
38 projects which were in the CIP for design only. Back in those days, the CIP for projects
39 like that would have in the text the range of cost this project is expected to be between,
40 you know, 25 to \$45 million or 25 to \$35 million. But it wouldn't be on the PDF itself. The
41 expenditure schedule would just show design. I took all of those projects, picked the
42 midpoint of those cost ranges and added them up in terms of how much money was not
43 programmed for completing them. And then there were about four other projects where,
44 for various reasons, there was partial construction cost programmed but not the full



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1 costs and the PDF said on the bottom, it says for Silver Spring Library the amount
2 programmed was \$25 million but the real cost is going to be between 32 and 35. And so
3 we took the difference on those four projects, added them all together, and it was \$515
4 million. That didn't include all the projects back two years ago which were in facility
5 planning. Well think about it, there are about 70 projects, at least back then and still
6 probably are, in facility planning and some of them in the early years of the CIP. Guess
7 what? Within maybe three years or so, about by, certainly the middle and latter part of
8 the CIP, they are looking for construction money. How much would those cost? Then
9 there are other things that are draws on the reserve as well. The biggest draw on the
10 reserve usually is just increases in costs. You have seen that this time around on
11 existing projects which have already been programmed for construction. And then
12 finally, there is also projects that sort of come up out of the blue, things that are good
13 opportunities that you want to take advantage of. That is another reason why we have a
14 reserve. You add all those things together and we estimated I think a very wide range
15 two years ago that the real draw on the reserve was probably one to one and a half
16 billion, but the GO bond reserve itself was only 244 million. So it was four to six times
17 what the reserve was. One to one half billion is probably too high because some of the
18 things that are in facility planning won't go to fruition until after the 6-year period. Some
19 of the things in facility planning will, you will decide no build, don't go forward with the
20 project. So, that won't generate the need. Finally, as you have also seen, the bond limits
21 that you have for spending affordability guidelines tend to go up. For example, back in
22 four years ago, the projection for FY09 was that we would be having a bond level of
23 \$230 million, but you're at 300 million. So there are always increases that happened,
24 has been at least, except for once back in the early 90s when we really hit a hard
25 sledding time, when the levels went up. Those things tend to mitigate against the one to
26 one and a half billion dollar problem. But still not enough to show there is going to be a
27 distinct difference between what is in the GO bond reserve and what is likely to come
28 forward that you want to build within the next six years. So, I've got some suggestions in
29 there as the things you might do to try to mitigate that problem which we can get into
30 later in terms of the discussion. And then finally, this is a little bit of a different issue but
31 we thought we would take the opportunity to show it to you, we come out every year
32 with the infrastructure maintenance taskforce report. We did it in 2005, 2006, and in
33 2006, we decided to go every other year. And so the next report is due out in a couple
34 weeks. The capital facilities managers are working on that right now. The interim results
35 on the CIP part of it, because there is an operating budget component of it as well, is
36 summarized on circle three of the packet. You see a table there which have most of the
37 level of effort projects which involve infrastructure maintenance, you will see three
38 columns for each. You will see something called annual acceptable replacement costs.
39 What that is what the taskforce recommends that optimally the County budget every
40 year forever. Now some years, the backlogs, in some of these areas the backlog is
41 much greater than that, but the idea is that if you do this level every year eventually the
42 backlog will go away and will be okay, not great, but okay. You will see at just the right
43 of that the actual FY09 request from the agency, not necessarily from the Executive, in
44 the terms of the outside agencies, but from the agency itself. And then finally, on the



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1 right hand column, a measure of criticality which is described on circle two, all the
2 capital budget managers from across the agencies have agreed on what kinds of
3 projects are the most critical, what are the next most critical, et cetera. So actually, there
4 now is consistency across all agencies, roof replacement for example, is in the most
5 critical category, it's a five. So, they don't have distinctions that way. And this is just
6 really here as a guide to you as you go through all the CIP recommendations from the
7 Committee because unfortunately this was not ready for the Committee's review. I'm
8 sure the Committee's would have loved to have this too. But if for example, you see
9 something as you come across one of your areas, what the Committee has
10 recommended, what the Executive has recommended, look at this chart and say, oh
11 gee, it would be great if we actually had a lot more and this is how much a lot more is
12 then if you want to think about adding, you can. Or, you might alternatively think, oh
13 gee, there's enough money there. The only caveat I would show you on this is on the
14 public schools, you will see for each individual item there seems to be a large deficit
15 until you get to the second to last line, which is infrastructure renewal and construction
16 PDFs. What that means is that there is obviously a lot of work being done in the
17 modernization projects which we will do, roof replacement, HVAC replacement, et
18 cetera, and they estimate that about 75% of the cost of those projects are that kind of
19 thing. And so you apply that, that is essentially part of the request implicitly. And so, the
20 overall deficit is not as great but it still gives you some indication. And I think with that I'll
21 just.

22
23 Council President Knapp,
24 Okay.

25
26 Glenn Orlin,
27 Questions or.

28
29 Council President Knapp,
30 No, thanks.

31
32 Glenn Orlin,
33 Listen to the discussion.

34
35 Council President Knapp,
36 Thanks for the overview.

37
38 Glenn Orlin,
39 Okay.

40
41 Council President Knapp,
42 Councilmember Floreen.

43
44 Councilmember Floreen,



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1 Well, the challenge of the T&E Committee is that as we look at transportation projects,
2 we are stuck with the director of the CIP analyzes, makes our budget work, so
3 transportation gets special attention in this. But it's not wrong. And I'd just say, I think it
4 would be very good for us to come to some agreement about Guiding Principles
5 generally. CIP is not, I don't think we should expect it to be a perfect document. I don't
6 think the numbers are ever going to be exactly right and I don't think anyone should
7 pretend that they are, but they are a statement of priorities and they are, more
8 importantly, a communication document to ourselves and to the community as to how
9 we wish to proceed on things. And I think the challenge is that, as far as I can tell, there
10 is such inconsistency in treatment of this, things are not evident as to what is in the
11 works, what is actually committed to for the purpose of construction and it makes it hard
12 for us to communicate clearly with constituents about what is occurring. I have even, I
13 don't sit on the Education Committee and don't spend a lot of time perusing school
14 capital budgets but I do think it is clear what they're going to do and immediately, and
15 then it becomes sort of a list of projects that they're getting to and an estimated
16 timeframe for achievement. And at least that part is consistent throughout. And I think it
17 would be to our advantage to come to some closure, some agreement on a way to do
18 this so that we can clearly communicate to our constituents what we are doing, when
19 the decision point will be as to go or no go, that is particularly true on complicated and
20 controversial transportation projects, surely or other kinds of issues that, we have been
21 struggling with this in the PHED Committee on the Silver Place project, how do we
22 communicate to the community that we want their engagement and resolution of key
23 issues and then allow the project to proceed in a predictable fashion. Because in terms
24 of getting all the pieces in order, it gets really complicated. And as an aside, I am not
25 sure how Glenn's recommendations would fit with some of our public/private
26 partnerships which are highly complicated and I don't know if you can come up with the
27 template for that. But given some of the creative initiatives that the County Executive is
28 looking at for the Public Service Academy issues and all that, I don't know how that fits
29 with this kind of thinking but I do think that we need to be clear about what we really
30 mean in the years where spending affordability is a key issue. And then I think we could
31 allow ourselves a little more leeway in later years. I don't pretend to know the answer
32 but I do think it would really be helpful to us to be consistent in how we look at these
33 things for the purposes of communicating to the public. At the end of the day, the
34 numbers do get changed, they get moved around. We have to be able to afford it. And
35 that then ultimately becomes, in terms of timing, that may be the most significant
36 decision. But that will be after we made our, been able to communicate what it is we
37 want to do and pretty much what it is that we would like to be able to do, and under
38 what terms, and I think that is an important conversation that we need to have.
39 Otherwise people get confused about what is happening now, what has the Council
40 approved, and I don't think we are doing a good enough job yet of being clear about
41 what we are approving and what we are not approving especially when you have a
42 project that has a lot of community concern and engagement. We need to be
43 straightforward. Anything that we can do to ameliorate the current, some, at least some
44 views of less than clear communication in this I think would be really good.



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1
2 Council President Knapp,
3 Mr. Leventhal?

4
5 Councilmember Leventhal,
6 Thank you. Mr. President, let me understand your intent here. Are we bringing this to a
7 vote? Is there going to be some statement by the Council here or is this generally a sort
8 of a let's get our minds around how we approach this academic discussion?
9

10 Council President Knapp,
11 That is why I wanted to see where the conversation went. I mean, if there was some
12 general agreement that these are okay or that perhaps not these but somebody had
13 another recommendations so that we could kind of set out some parameters, great. If
14 not, I think it is helpful for us to at least have an understanding, we have four new
15 Councilmembers who have not done a CIP before, I think it is important for people to at
16 least understand kind of as we start approaching it what we think we're looking at. If
17 there was agreement, super, if there's not agreement, I think at least we've had the
18 benefit of trying to hear where everyone is as we start to approach various projects.
19

20 Councilmember Leventhal,
21 Okay. Well, I appreciate that the Council President has an organizational theory
22 approach to many of these issues and I know that you think very carefully about how to
23 proceed and plan, you know, your steps in a very strategic way. I like that about you
24 and I know that this is consistent with that and I appreciate that Glenn also has devoted
25 a lot of thought to what is a good public policy approach to committing funds several
26 years out when there are many things that are unknown. But I don't support this.
27

28 Council President Knapp,
29 That's okay.
30

31 Councilmember Leventhal,
32 And I would not want the Council to be guided by this. If that is all I need to say, if you're
33 taking our pulse and we are not voting today then I've said it.
34

35 Council President Knapp,
36 Not so much on this.
37

38 Councilmember Leventhal,
39 Yeah.
40

41 Council President Knapp,
42 I guess my perspective would, I guess what I would like to try and get a sense of, if not
43 this, which, it's always better to start from a piece of paper in front of people, what are



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1 the types of things that you think we ought to be looking at as we kind of begin our
2 assessment of the CIP?

3
4 Councilmember Leventhal,
5 Well, you know, I sit on two Committees. And there hasn't been a clear or consistent
6 Guideline.

7
8 Council President Knapp,
9 Right.

10
11 Councilmember Leventhal,
12 And I am not sure that that is necessarily a bad thing because it is not possible to fit all
13 projects into, you know, a cookie cutter mold. There are, some things are known, some
14 things are not known, some things, I don't want to repeat Ms. Floreen's remarks but,
15 you know, some things have a high level of community interest and if we don't fund
16 them then we're sending a message that we do not support them even though we do,
17 but we haven't dotted every I and crossed every T yet. And so I am not certain that it is
18 feasible in the political environment and in the budget environment to, much as I
19 appreciate the effort, to say across the board this is how we're going to approach this
20 and then use that to repeat what Glenn Orlin said as a way of getting to know. That
21 concerns me a lot. Because I might support this if we did the CIP every year but there
22 are things that are going to happen between now and two years from now, and it is
23 important that we make room in the CIP for things that we feel strongly about even if we
24 have not gotten as far down the road as Glenn's document would suggest that we
25 should have. Two years is a long time. And so if we're going to be honest about making
26 our very best effort in this document to forecast everything we think we might have to
27 pay for as best we can, then there's going to be a range of uncertainty about the things
28 we might have to pay for over, not only a two year timeframe, but a six year timeframe
29 and beyond. Some things, you know, we only program design funds in years five and
30 six because we know it is a 10-year project or a 12-year project. And so I don't think
31 uncertainty, I think you would expect a certain amount of uncertainty and I think trying to
32 stamp out uncertainty will actually lead to creating, I'm sorry to say it, a less than, a lack
33 of honesty because we are going to then end up reconfiguring the CIP all the time as,
34 you know, when preliminary engineering is done or when some of these checkpoints
35 that Glenn's memo recommends are completed, then we have got to shove the thing
36 back into the CIP where it would have been better to have made room for it in the first
37 place. So, if this is just an academic discussion, then, you know, I have participated in it.
38 If we are bringing this to a vote, I vote no. I don't think that the Council should tie its own
39 hands generally. I mean the answer, it may not be a satisfactory answer to everyone,
40 but the answer as to how does something get in the budget is because five of us voted
41 for it. And you know, we were elected by the people of Montgomery County to make
42 these choices. We had a discussion led by Mr. Berliner yesterday in the HHS
43 Committee and very little is known about some of these library projects. But we also
44 want to send a message to communities that we know there is a need for a new library



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1 and we intend to build a new library, but we are still pursuing and exploring exactly how
2 that is going to be done. So if you didn't have any PDF at all for some of these libraries,
3 our servers could not handle the volume of e-mail that our computers would receive,
4 people would say how, what do you mean we're not going to have a library? Of course
5 we're going to have a library. So that is the lack of clarity and uncertainty that we have
6 to deal with. And so I understand that striving for accuracy that we, as best we can, we
7 know precisely how much we have to spend is one goal. And I agree that that is one
8 goal but on the other hand, another goal is making room in this document for things that
9 within the timeframe spanned by this document we reasonably think we want to pay for.
10 And those two goals may sometimes be in competition and I'm concerned that Glenn's
11 memo leans too heavily on the first goal at the risk of either omitting or delaying things
12 that ought to be in this document.

13
14 Council President Knapp,

15 Just to be clear, I am less concerned about the accuracy piece than more so people
16 understand what it is. I mean one of the questions that's come up in talking to a couple
17 of the groups, recreation centers is one of the topics of interest, so, what is it. If it is in,
18 what does it mean? Does it mean for as long as it is a PDF? Does that mean it is in? If
19 it is in for construction all the way through does that mean it is in? So I guess it's more
20 to get a clarity of how are we presenting whatever we are presenting to people and is
21 there a way to get to some commonality and if there is, great, if there's not, I don't
22 necessarily disagree with the Councilmember's perspective that it may be counting to
23 five. And that may be very clear to us to tell people that. I just wanted to make sure that
24 we as a body were having that conversation especially with half of us being new, it only
25 happens every two years, just to make sure everyone is talking about that so we kind of
26 know where we all are. So I appreciate your comments. Councilmember Elrich.

27
28 Councilmember Elrich,

29 I am not quite sure I am vis-à-vis George's comments. I guess I have a number of
30 concerns. It's, the first thing is, I want to get from a statement of priorities to a statement
31 of intent. I think that, you know, in six years we ought to be able to say with at least
32 some degree of certainty what it is we plan on doing. I don't like the idea of spending
33 planning money on things that are then going to never get built, or deferred so long that
34 you virtually have to go back and re-plan them again and spend the money twice. It is
35 very easy to fill up all the years of the CIP with \$300 million worth of projects. And it's
36 kind of been enlightening, you know to me, to listen to some of the discussions in my
37 own Committees. I mean, we're dealing with, you know, virtually everybody on this
38 Council has signed on to building these rec centers and then had zero dollars in the
39 budget for construction. Are we going to plan them and not build them? Or do we intend
40 to plan them. And that's just where I think that, you know, things we actually intend to
41 build, where nothing is going to come back, you know, we are all going to address those
42 rec centers and those communities, nothing is going to come back that's going to say
43 don't do those rec centers. And if that is where we are going to go, that needs to be in
44 the budget. If we're going to do this Judicial Annex, you know, I am not comforted



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1 having zeros in the budget for the years that are supposed to be construction,
2 particularly since this project which went from 150 to \$250 million, and now we are
3 trying to bring back to earth, I think Phil's suggestion was around 100, that needs to be
4 in there. And we need to, if this is what we are going to do, I think that the budget needs
5 to reflect that it is going to be in there for construction in the three out years. That
6 seemed to be what they told us that they could do and I think real things we really plan
7 on doing ought to be in here. It doesn't mean there is no flexibility because I agree that,
8 you know, something will come up and may come up. And we'll be, you know, we may
9 decide this is an urgent priority and we need to reconfigure what is in our list or maybe
10 we need to add to what we're going to bond forward that's so urgent we can't afford not
11 to do it. And I think that that is our flexibility and that's where counting to five, but I don't
12 see any problem with trying to count to five over a six-year plan and at least let people
13 know what it really is we intend to do. I heard an argument from the Executive side that
14 the argument for zero for construction funding was they didn't want to give us an
15 inaccurate number. My reaction was it is hard to be more inaccurate than zero if you
16 actually plan on building something. I mean, telling me that, you know, if we were to do,
17 for example, the judicial thing, and if we guessed at, you know, at \$100 million and it
18 turned out to be 120, so we are off by 20%, well, that is \$20 million. That's going to be a
19 lot easier to find if that's what we intend to do than to have zero out there for three
20 years, and say okay, we have done the planning and design and we are ready to go
21 forward, oh, now, we have got to find \$120 million. I mean, that is a whole different
22 magnitude of the kind of problem we're facing. And you could add this to the police
23 stations that are sitting in there, that we say we urgently need to replace these stations
24 or we need to build this station, and then there is no construction money for it. So, I
25 think the things that we're sure ought to be, or we want to be real, those ought to be
26 reflected in there. And I don't know, I mean, it is a difficult political thing and it may
27 shrink the total list of projects. I mean, I can certainly put more projects in the budget if I
28 don't put any construction funding in there. And then we can politically go out to
29 everybody and say we have this enormous list of things we are going to do, but then we
30 know we're not really going to do them. And somebody, you know, is going to be clever
31 enough in the community to start reading these documents in the out years and say,
32 thank you very much for putting it in here but you actually don't have any money in here
33 to construct it. So I would like to have us at least put in things that we know we are
34 going to do and have, you know, the best estimates they can give us and try to build this
35 budget around this. You know, I think the other part of this communication is we have
36 been trying to convince the community and some other groups in the community, how
37 serious this budget situation is. Not telling people that the list of what we need to do far
38 outstrips our ability to do it, is not helpful in convincing people that this is a serious
39 budget problem we are having. I am not sure this is going away in one year. I think it is
40 likely that we're looking at, you know, a few years of constrained spending. I think the
41 community knowing what our limitations are is a good thing, not a bad thing.

42
43 Council President Knapp,
44 Councilmember Trachtenberg.



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1
2 Councilmember Trachtenberg,

3 Thank you, President Knapp. I find myself in agreement that Guidelines would be a
4 good thing, but at the same time I am finding myself in agreement with what
5 Councilmember Leventhal raised. I have issues around flexibility. And I, at this time I
6 would not be comfortable today agreeing to the Guidelines here because I don't think
7 they sufficiently address that. And I would suggest that those kinds of parameters are
8 part of what I would think collectively we'd have to at least take some stab at over the
9 next few days or maybe the next few weeks. I have some specific questions around
10 building projects. Again, we have not really had much of a conversation within MFP, and
11 again, I recognize that I have not gone through this before, this is my first time, so let
12 me ask this rhetoric question, which is, at the completion of the schematic design, why
13 would we give the Committee as opposed to the Council, the go/no go decision making
14 authority? I just want to be straight about that.

15
16 Glenn Orlin,

17 Well, first of all, it wouldn't be authority so much as guidance. What happens, the
18 parallel is with T&E on transportation projects. In facility planning for transportation
19 projects, there are the two phases. For the last 15 years, any major project, not every
20 project, every major project, once it has gone through phase one, there is a review at
21 Park and Planning, it actually comes to the T&E Committee and the T&E Committee
22 scheduled a time where other interested Councilmembers can come. And it is a time for
23 the Committee to look at the work that DPWT has done so far on the transportation
24 project and say, most of the time it say, either, this is fine, proceed with, in the next
25 detailed phase with what you are coming up with or you really ought to look at a
26 different alternative and this is what we think you ought to look at. Very rarely they'd say
27 no, but they have said no. But when they say yes to this, or yes, but look at this other
28 alternative, or no, it is guidance. It is not legal authority. It is basically sending a
29 message. It's saying that when this project comes back to us after phase two, either you
30 should be responding to what we are guiding you towards, or if you don't, tell us why
31 and should be a good reason, but don't carry it all the way through facility planning
32 without our having to have this conversation is the term we use a lot. That is the kind of
33 thing we are talking about here. That doesn't really happen on police stations, fire
34 stations, libraries. Sometimes the very big projects, I remember Strathmore, it happened
35 all the time. But it, but most projects, it doesn't really happen until the whole project is
36 put in front of you for construction, and sort of like take it or leave it. At that point you
37 have to take it because, unless you just totally don't like the project and you say no,
38 because you haven't had the opportunity to have, to guide it in a direction that you might
39 want to have it go into. And I think the Council, the Committees ought to take that on.
40 But again, at a time where other interested Councilmembers can come, so it ends up
41 being more of a group thing. I think putting it on the Council's agenda might bollocks up
42 the Council time frankly. And most of the feedback in the Committee on these projects
43 is usually pretty good.



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1 Councilmember Trachtenberg,
2 How is the construction cost calculated? What is the new equation facilities is using to
3 estimate construction costs?
4

5 Glenn Orlin,
6 Well, typically now they are looking at the midpoint of construction cost. If a project is
7 going to be four or five years from now, they try to project based on whatever scope
8 information, scope they have. By scope I mean what exactly are they building? And
9 then projecting the cost of labor and materials out to that midpoint. It's actually, to be
10 technical, then they back off the amount of assumed regular inflation that's in the
11 macros for the CIP and that's when they end up with a number. Because the extra, the
12 dollars typically in the CIP are shown in constant dollars, not current dollars. But this is a
13 way of trying to get at a more precise cost once they put it out there in time.
14

15 Councilmember Trachtenberg,
16 And how are we estimating the highest possible costs?
17

18 Glenn Orlin,
19 Highest possible ones? Oh, you mean the, well, let me just turn to, maybe Jackie would.
20 Jackie Carter is the OMB Coordinator for OMB. Ms. Trachtenberg, you said the highest
21 possible cost? You mean, if it is a range?
22

23 Councilmember Trachtenberg,
24 Yeah that's the general area where I am going with the questions. Again, I am trying to
25 get some clarity about the estimates that we are using.
26

27 Jacqueline Carter,
28 DPWT comes up with a cost estimate and the range is basically, they take a, they come
29 up with a number that they feel might be reasonable and they just have a percentage
30 below, take a percentage below that number and a percentage above to come up with a
31 range.
32

33 Councilmember Trachtenberg,
34 I appreciate that. I am just going to close with some remarks about the CIP reserve and
35 the memo that was provided by Dr. Orlin to us which I actually liked quite a bit, and I will
36 go to the point Glenn that you raised over the three suggestions, in slowing the growth
37 in facility planning programs, approving larger projects in stages, and deleting new
38 projects that are nice to have rather than must have. You know, I, those appeal to me
39 and they go back very much to what Councilmember Elrich raised, but at this time I
40 know I'm going to continue to have questions about this and so what I would submit is
41 that I would like a little bit more time to work constructively with my staff. I really have
42 not have an opportunity to sit down with my two senior staff who are really covering this
43 for me. We have spoken in the hall in passing a few times but I have a feeling that I will



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1 have probably a lot more, many more questions but I appreciate all of the hard work and
2 effort that has gone into this.

3
4 Glenn Orlin,

5 Given that you've raised the issue of the reserve, if I could spend like two more minutes,
6 there was an issue I didn't cover which I should have in the overview, which I forgot. I
7 apologize. It has to do with how to deal with the reserve. And Mr. Knapp actually
8 brought the suggestion. Right now we have a general obligation bond reserve in the
9 recommended CIP, it's about \$280 million. In other words, that's money of the total
10 amount under your guidelines which was not recommended for programming. It's there
11 for cost increases in existing projects that might come in a later year, that sort of thing.
12 That is used up, if you will, on a sort of a first come first served basis. As a project
13 comes forward that's above this, if there is money left in the reserve, the first question
14 you all ask is, is there money? We say yes. And if you like a project you say okay. But
15 then there's the worry that some agencies that are for whatever reason more productive
16 in getting projects ready, we'll get them there and it doesn't preserve parts of the
17 reserve for other things. It gets a little bit to Mr. Elrich's point but you are thinking
18 actually of specific projects. This is not that far, but, it doesn't go that far, but what it
19 would do is say, take that \$280 million, 279 I think it is, and set aside essentially a
20 designated reserve for each agency or perhaps even within County government within
21 programs within each agency because there's several different programs,
22 transportation, public safety, et cetera, and the memo talks about that. That is
23 something that would be good if you could talk about a bit because, in fact, if you do
24 want to go in that direction, we need to spend a little bit of time trying to working up what
25 those reserves might be. You will need to discuss it and decide whether or not you want
26 to approve them. But one of the things you ought to take into account is the degree to
27 which an agency already has a lot of its program programmed out to the sixth year. And
28 that, Adrian Carmillas is here, I'll just, for her benefit, schools, the modernization
29 program is programmed to the max all the way out to the end of the six years. And there
30 are a lot of addition projects and new schools which are actually programmed out to the
31 end of the sixth year period. On the other hand, something like a public safety program
32 within County government, there is almost nothing in the last few years, even though
33 there are projects we know are going to be coming forward in costs. And so, I would
34 argue that the, not public safety reserve should be bigger than schools, but all else
35 being equal, you ought to think about public safety being somewhat larger, schools
36 being somewhat smaller than what the norm would be otherwise. And that's the kind of
37 thing to keep into account. But it's a way of approaching the reserve which we have
38 never done before. It has definite pro of carving out a piece of the future, if you will, for
39 certain agencies or programs which is not immutable. You could in a pinch say, okay,
40 well, we run out of reserve for public safety and now we have to dip into somebody
41 else's reserve, let's do that. But you can also see the problem. Politically, now there will
42 be a food fight over who gets the reserve. And you got all of that. But you can't have it
43 both ways. Either you can have a reserve and it's open to the first come first served, or



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1 you be fairly specific as to what those markers are. I am sorry I didn't raise that earlier
2 but it was part of the.

3
4 Councilmember Trachtenberg,
5 No, and I appreciate the comments.

6
7 Council President Knapp,
8 Councilmember Floreen.

9
10 Councilmember Floreen,
11 Yeah, well, I think we are trying to have it both ways. And that is the challenge here.
12 Circle eight is rather daunting in terms of the list of projects that are in for design only.
13 But, you know, they are viewed as commitments. I haven't, you know, the Committees
14 I'm on we've only looked at a couple of these projects. I hadn't focused on the others
15 and I guess, what I've learned in the past, now this is the sixth year here, is nothing's
16 precise in the CIP. And nothing is certain. What it is is that, as I said earlier, it is a
17 statement of we are getting to it, it is on the list. That's sort of the communication and
18 we are trying to make it work in a way that respects whatever concerns are out there.
19 So, I do think that the challenge is viewing what the reserve might be and trying to
20 capture that, is a certain effort that occurs. It's, I am not sure how much of that the
21 County Executive's budget does. I think we've certainly looked at that in terms of
22 assigning how you pay for things. And I do question some of our basic assumptions,
23 how much we really need to worry about this all past the first two years of the budget in
24 terms of affordability. Because the later years, things do change. So I do wonder, if we
25 are confining our conversation to current boxes and maybe we should look at a different
26 way of defining the issue. The other thing is I did take the liberty of looking at the charter
27 which tells us here that we are, the capital programs is supposed to recommend capital
28 projects and a construction schedule. And lot of this does not, what it doesn't include a
29 construction schedule, I wonder maybe if we should characterize it a little differently. I
30 don't know. It is just a question, I don't disagree with nearly everything that everyone
31 has said, I think we're all agreed in struggling with this. But I do think what we don't want
32 to have are situations where you sort of do end up with a competition in advance of the
33 need for that real competition. You know, if we are talking about a competition in fiscal
34 year '12, you know, that is not necessary. The real competition is, right now, is for '09
35 and '10 and what will fit. In the later years it's more a definition of priorities and how
36 we're going to communicate that. So, again, I don't have an answer but I do have some
37 views that we tend to get too worried about the details early on for projects that are not
38 going to occur before we revisit the CIP. And I think that is something we should be
39 equally cognizant of. And if we find a way to bridge that gap to identify, you know, this is
40 what we are going to do under these circumstances now, and these are the things we're
41 going to worry about and try to do under the right circumstances and then these are the
42 things we are constructing, X, Y, Z years is our plan. And if we could be clear about
43 that, I think we would all be comfortable with something like that.



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1 Glenn Orlin,
2 The only thing you have to worry about.

3
4 Councilmember Floreen,
5 It is just saying well, okay, we are only going to do it one way, and then everything else
6 is up for grabs, or else we're only going to do it one way and everything is nailed with a
7 predictability that is not reliable. That is the tension of all of this. And I think we need to
8 at least lay the groundwork for some different parameters. And I have to say, it is tough
9 doing it in the middle of budget but I don't know how else you have this conversation
10 unless you are confronted with these immediate decisions that we've got to make. So, I
11 think it is a good conversation for us to continue to have. And, you know, I don't know if
12 we can work it out in the next couple weeks but I do think this is, you know, the budget
13 is a political document as much as anything.

14
15 Council President Knapp,
16 Yep.

17
18 Councilmember Floreen,
19 And for us, it is not just a mathematical certainty document. And I think that is part of the
20 trade off here that we need to sort through.

21
22 Glenn Orlin,
23 There is two parts of the math though you have to always keep in mind. One is the
24 spending affordability guidelines.

25
26 Councilmember Floreen,
27 Yeah.

28
29 Glenn Orlin,
30 One is a six year guideline. And so, you can exceed it if you have seven votes but
31 otherwise you can't.

32
33 Councilmember Floreen,
34 That is in the code. Six year spending affordability guideline?

35
36 Glenn Orlin,
37 Yes. There is three guidelines, the first year, the second year, and the six year total.

38
39 Councilmember Floreen,
40 Are we required to have the six year? I mean.

41
42 Glenn Orlin,
43 Yes.



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1 Councilmember Floreen,
2 Is there anything other than the code that requires the six year as opposed to having?

3
4 Glenn Orlin,
5 Well, the charter.

6
7 Councilmember Floreen,
8 The first two years.

9
10 Glenn Orlin,
11 I don't think the charter does, just the code.

12
13 Councilmember Floreen,
14 Yeah.

15
16 Glenn Orlin,
17 The implementation of the charter, or the code says first year, second year, and six year
18 total.

19
20 Councilmember Floreen,
21 So again, if we wanted to change how we did this, we could change other rules as well.

22
23 Glenn Orlin,
24 Change the law again.

25
26 Councilmember Floreen,
27 That is what we could do if we thought, if there was some utility to it. I don't know. But I
28 wouldn't assume that we have to do it the way we've always done it because we always
29 did it that way.

30
31 Council President Knapp,
32 And that is one of the reasons for laying this out.

33
34 Councilmember Floreen,
35 So, that is why you have a conversation.

36
37 Council President Knapp,
38 Right.

39
40 Councilmember Floreen,
41 Because, you know, that spending affordability stuff is really has had virtually nothing to
42 do with our final decisions because of the way that numbers change.

43
44 Glenn Orlin,



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1 It had a huge impact on several years in the 90s. There were.

2
3 Councilmember Floreen,
4 Well, on the ones I've had to.

5
6 Glenn Orlin,
7 What we refer to as a train wreck. We had a couple of those in the 90s. We're, and
8 that's what we're trying to avoid here.

9
10 Councilmember Floreen,
11 No question there are train wrecks we want to avoid, but on the other hand we need to
12 be clear about what that means exactly. And we tend to, we often fail to review the
13 wording of that.

14
15 Glenn Orlin,
16 What I meant was that there was three Councilmembers who were not willing to exceed
17 the spending affordability guideline and so, at the end there was a train wreck. There
18 was not the ability to pass a budget unless there was.

19
20 Councilmember Floreen,
21 Well, you know.

22
23 Glenn Orlin,
24 And so it happens.

25
26 Councilmember Floreen,
27 That is not your problem.

28
29 Glenn Orlin,
30 Not yet, no. Kind of is.

31
32 Councilmember Floreen,
33 Well, really.

34
35 Council President Knapp,
36 Councilmember Leventhal.

37
38 Councilmember Leventhal,
39 Well, while we're providing history lessons, I want to make sure that the Executive
40 Branch, and I'm talking to the Executive Branch now, does not take the wrong lesson
41 from the Strathmore discussion because Strathmore was unusual. Strathmore was not
42 characteristic. If my colleagues now think that the volume of community questions and
43 skepticism and concern over LiveNation is loud, that is nothing compared to what
44 Strathmore was. We had a situation where we had agreed, where the Governor and the



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1 County Executive had agreed to provide a second home for the Baltimore Symphony
2 Orchestra, a statewide deal had been made and it was going to cost County taxpayers
3 \$45 million, and Councilmembers at this time, this was before I got here, had strong
4 concerns about it and unusually, this does not occur in other PDFs, in the PDF it was
5 stated that the County contribution will not under any circumstances exceed \$45 million.
6 Surprise, surprise, three years later DPWT came back and said well, whoops, we need
7 \$50 million. Okay. That was unusual. That was not characteristic. And so the lesson that
8 the Executive Branch draws from that should not be every single time DPWT comes
9 back to us and says, it's going to cost a little more than we thought, the Council is going
10 to come all unhinged. Strathmore was an unusual situation where a firm pledge to the
11 public had been made in the PDF that there would not be cost overruns. That for that
12 one particular project, we really knew what it was going to cost and it wouldn't cost any
13 more. So that is unusual. Where I think it would be more useful to go, again, I
14 appreciate the work that's been put into Glenn's document, but where I'd like to get
15 back to is the conversation we had after the OLO report on why does this range of the
16 reality, why is there such a range of the reality of construction costs versus the forecasts
17 in construction costs and explore a different mode, we're not going to do that in this
18 budget, explore a different mode of presenting the PDFs like that Washington state
19 model. So, and I actually agree with what Councilmember Elrich said. It seems to me
20 we should be more up front with the public. The purpose of this document is to tell the
21 public what we think we are actually bringing on line. You and I haven't said anything
22 different there. But that is different than what Glenn's recommendation said. What
23 Glenn's recommendation says is, don't put it in this book even if you think you are going
24 to do it unless you have full details, full knowledge very far down the road of assembly
25 and very strong cost estimates. So what I would rather do is if it is in this book, there is
26 a more than reasonable expectation that it is going to be built and that we are also up
27 front with the public, and this gets to what OLO found for us, that there is a range of
28 costs. We don't know precisely what it will cost. It might cost this. Might cost that.
29 Economic circumstances, building materials, costs, you know, the price of steel in china,
30 all of these things are factors that may change and therefore there is some fluidity,
31 especially the longer out that you program, and the document could reflect that and
32 OLO provided us with a model of how that might occur. So my hope is that we could,
33 and I'll contribute to this, bring this very interesting discussion to a prompt conclusion,
34 that we will not vote, that we will not tie our hands, that we will not adopt a binding policy
35 today and that we will get through budget using our good judgment and such as it is as
36 elected officials and then later we'll talk about a new mode of presenting PDF's, cause I
37 think that's a more constructive way of focusing our thinking about how to be more up
38 front and more candid and more accurate in the CIP. But I don't think we'll get to it this
39 cycle.

40
41 Council President Knapp,

42 Well, I don't know if we can't get, but we may have to get to it this cycle just out of
43 necessity because actually, while the projects that are here maybe have an assumption
44 that they will come to fruition some day, I think what Mr. Elrich is saying is he'd like them



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1 to be a closer window. I mean, I know that there have been fire stations that have been
2 PDFs since 1999 that are now finally being constructed. So I think there's going to be a
3 transparency we're going to have to look at as it relates to what's in here and what's it
4 really mean to be in here. Is it going to be constructed in six years or is it going to take
5 10 or 12 or 14 years? And I think that's going to be a point that we may end up coming
6 back and looking at what are our guidances? I don't think it's to bind our hands as much
7 as it is to say as a body this is roughly, this is why we included something and this isn't
8 why we included something. Mr. Elrich.

9
10 Councilmember Elrich,

11 Yeah, I'm going to make one last pitch for taking the long view rather than the short
12 view. I mean, I think that the two years is too short of a view. If we were dealing with a
13 piddly little budget of a few million dollars that we could play with every year, then I
14 wouldn't care, but when you're talking about programming \$300 million or more a year,
15 \$1.8 billion over, you know, six years, I think taking the long view is really important.
16 And I think that this body, I mean, Nancy used the word political, I know these are
17 political decisions, political decisions, you know, but the other thing is, you know, those
18 political decisions make it a bunch of short term political decisions that lead us to crowd
19 out projects that we know we have to build but which are politically easier to defer for
20 the moment because we want to do something political. And then when the bill comes
21 due, the bill is twice, three times what it would have cost if it had been done in a timely
22 manner. Well, that has a political price too. I mean, at some point people realize that the
23 decision to defer necessary things is going to have a cost that all of us are going to
24 have to bear. And instead of making hard choices and saying, you know, do I really
25 need this as much as I need to do the other things, like the fire stations, the police
26 stations, the libraries, and the rec centers, if I'm going to defer necessary stuff to do
27 something that I think is political, then I think we create a bigger problem for ourselves
28 in the long run. So I'd like, you know, I'd rather have this document be real. I'm going to
29 certainly push to put projects in the Committees I'm on into the CIP. And then we have
30 to look at the 300 million that we're budgeting for all years, and some things will fit and
31 some things won't, but frankly, I'd rather have people know that we're going to fix the
32 recreation centers in the historically black communities that haven't had their rec centers
33 fixed while we build new rec center after new rec center after new rec center. I want
34 those in the budget. And then something else may have to come out. I'm perfectly
35 willing to do that. But if that's our priorities, the budget ought to reflect it.

36
37 Council President Knapp,

38 Okay. I think this has actually been very helpful to get the various perspectives out
39 there. There have been some guidances, you know, some elements that – in adopting a
40 set of principal I think you get a sense of where Councilmembers are, which is helpful.
41 And I think as this works through our deliberation on the full CIP over the coming
42 months that, I think as Councilmember Trachtenberg indicated, I think there are some
43 things that we will naturally kind of gravitate toward and look for some different flexibility,
44 just out of necessity of how we're going to have to do this. And so I think it's been



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1 helpful for me, and it will be helpful to try to take all of the pieces that the Council will
2 give guidance on that we will then have to try and reconcile over the course of the next
3 month, month and a half to figure out how we do that. And so, this has been, I think, a
4 worthwhile exercise because in my time we've not had kind of a full discussion about
5 how we're approaching. We've just kind of jumped in with both feet. So I appreciate the
6 comments of my colleagues, and we will take that guidance and try to work within the
7 context of the recommendations we'll make and the various individual CIP discussions
8 that we'll have. So I thank Dr. Orlin for your efforts and I thank you for the memo. We
9 now turn to agenda item number 10, which is the PHED Committee MNCPPC FY09-
10 FY14 Capital Improvements Program. And Ms. Michaelson. And Chairman Elrich.

11
12 Marlene Michaelson,

13 Okay. The way this memo is presented, it's grouped so that the most controversial
14 projects are up front and those are the ones we'll, I'll try and go through in more detail,
15 and I think some of the other ones you can very briefly address. By way of summary on
16 the first page, you can see that the request this year from the agency was for \$208
17 million. The Executive recommended 193 million, and the PHED Committee came out
18 at approximately 200 million, but I want to let you know that a large part of the difference
19 between the Executive and the PHED Committee recommendation is in Park and
20 Planning bonds and program open space funds, not in GO bonds or current revenues,
21 and that is significant. The very first project on page 3 is the McGruder Branch Trail
22 Extension. This is a new project and one which the Committee believes is an important
23 project. The Executive did not recommend funding it due to fiscal concerns. The
24 Committee's recommendation is to defer the beginning of the project so that it can be in
25 the CIP and begin design in the out years but not have the large cost associated with
26 the project as submitted by the agency. I guess I'll just keep going unless I hear
27 otherwise.

28
29 Council President Knapp,
30 Take silence as agreement.

31
32 Marlene Michaelson,

33 Okay. North Four Corners Local Park. This is, I think, the most controversial project in
34 the entire CIP, and as such, it's probably worth spending a little bit of time going through
35 sort of the individual elements of this. But to start with, I want to explain what is in the
36 CIP and what the Planning Board is now presenting to you, and that is different. On
37 circle 26, you will see the project that is in the existing CIP, and that project has two
38 fields, two multi-use fields. On the east side of the site, you can see the site of the
39 existing soccer field. It is directly adjacent to a neighborhood and, in fact, you can even
40 see the homes on the right side of the page, so you can see the proximity to the
41 neighborhood, and there have been problems over time because the access to this field
42 has been through the neighborhood and parking is in the neighborhood. What was
43 proposed in the CIP was to add a second field., that's the west field, with parking and on
44 the left side is University Boulevard. So what you see in the CIP was a two-field option.



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1 The Planning Board spent a significant amount of time looking at options for this park
2 due to the large amount of testimony they received on it. They looked at options for this
3 park with no fields, with two fields, and with one field. And what they ended up with is
4 the diagram you see on circle 25. Their proposal at this point is to take the field that is
5 located on the east side of the site closest to the community and move it west closer to
6 University Boulevard with access and parking from University Boulevard. And they
7 believe that this will significantly reduce the impact on the community. The area of the
8 site that has the current field they propose changing to a passive recreational area with
9 significant landscaping, and you can see they've actually sort of cut up the area that
10 was the field with landscaping to prevent it from becoming a de facto field. They've also
11 added some playgrounds, amenities, walking paths, trails, a gazebo, a number of
12 assorted amenities to make it a very attractive urban park. And you'll see there's
13 significant landscaping, too between sort of the east side of the park and the west side
14 of the park, the east side of the park more likely to serve the existing neighborhood, the
15 west side of the park with the field now more likely to serve people who might be driving
16 to the park and entering from University Boulevard. So this is a significant difference.
17 Going through the items, first of all, I want to highlight on testimony, Council received
18 quite a bit of testimony on both sides of the issue, both against this and supporting it. At
19 the time the PHED Committee considered this, the preponderance of testimony you had
20 received was supporting the project. At the PHED Committee meeting, a petition was
21 handed in with a significant number of signatures, I've actually put the language of the
22 petitions on the bottom of page 5 so you can see exactly what people were signing. I
23 don't think either petition, to be fair, talked about the options. One asked if people
24 supported having an additional soccer field and noted that it was a rare opportunity for
25 active recreation. The other one asked whether people would like to enhance the
26 existing meadow without noting that there was an option for soccer. So I'll just say that,
27 I'll let you have your own interpretation, but I wanted to make sure you understood what
28 the petitions said. Moving on to the history of the project, this project, the park was
29 originally just the east side, it was expanded to the parcel on the west side as a result in
30 the North Four Corners master plan in 1998. At the time the Council considered that, it
31 appeared that there was a possibility that the west side of it, which had formerly housed
32 a school, might become available. And the Council said that it was appropriate for a
33 PD7 zoning, but that if it became available, it would be a good opportunity for additional
34 active recreation, which was in very short supply in this area of the County. Some of the
35 testimony talked about the need for soccer fields and whether there was a legitimate
36 need for additional soccer fields in this area, and for those new to the Council or
37 perhaps as a reminder, every five years, the Park and Planning, or the Parks
38 Department does a large study of what the demand and supply are for recreational
39 facilities, and they report to the Council on this. And basically, this is what guides
40 development of the park system. And they track new interests, new use, whether it be
41 skate parks one year that didn't exist 20 years ago or just changes in different sports.
42 So what this indicates is how many fields are available, and it projects demand into the
43 future, and then it ends up guiding the CIP. So that is what the 1995 plan, it's done
44 every five years, indicated a 73 field deficit County-wide by 2020, and approximately 11



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1 field deficit in the Silver Spring Takoma Park area also by 2020. So there is a significant
2 deficit. The other thing that we heard in testimony was that there were plenty of other
3 options where one could locate a soccer field in this area. And the Committee and the
4 Council, I guess during your hearing, asked Park staff to very carefully look at those
5 opportunities. They did review all of the opportunities that were recommended, and I'll
6 quote, they said there are no additional existing fields in this area that can be expanded
7 or converted and are not currently planned, and there are no other undeveloped sites
8 that are suitable for a large, rectangular field to meet this need in the Silver Spring
9 Takoma Park community based planning area, which North Four Corners is a part of.
10 And one distinction here is that there are plenty of opportunities for small fields that
11 would serve children under 10. The field that they're trying to site here is a field that
12 would be large enough to serve children 10 and above and adults. And that's where
13 they have the most significant shortage. They're, in fact, fine on the small, younger
14 youth fields. Another issue, and I think this is probably one that personally I believe is
15 one of the most important, is what the function of a local park is. We have a park system
16 that categorizes parks in different tiers, and basically the function of a local park is to
17 provide a combination of active and passive recreation. We do have a number of parks
18 in the system that are focused on passive recreation. We have conservation parks, we
19 have neighborhood parks that are more passively oriented. Virtually every single one of
20 our local parks has at least one field, and in many cases, two fields. And historically, I
21 have not known one community that would not prefer to be adjacent to a passive park
22 that brings the fewest number of users, that draws primarily from the adjacent
23 neighborhood. Local parks with fields and hard surface trails are almost uniformly
24 opposed by adjacent neighborhoods because it does bring in people from outside the
25 adjacent neighborhood. But with some 140 local parks with fields throughout the
26 County, you can sense it's not intended to draw from the large region, but, you know,
27 some areas, somewhat larger than a neighborhood park but significantly smaller than a
28 regional or recreational park. Because we have routine objection to placing active
29 recreation in local parks, my concern is failure to support this project is going to make it
30 very difficult for us to answer the claims of virtually every other community who will say
31 that they do not want active recreation directly adjacent to them. That is the potential
32 precedent of this particular park, and in past, as I said, we have numerous complaints
33 that we get when the prospect of a field and the Council in the past has very firmly said
34 local parks are for active recreation, and that's why they have been placed there. And I
35 do want to mention that there is, that 75% of the park system is preserved for passive
36 recreational uses, conservation uses. Two-thirds of our regional parks are undeveloped
37 stream valley parks, conservation parks. So it's not as if there are not areas within the
38 park system that are completely geared towards passive recreational use. It is, in fact,
39 75% of the land area. One of the issues that you've heard about in testimony, in fact,
40 saw pictures of, I believe, during your public hearing, was the parking problem in the
41 local neighborhood with the field directly adjacent to the neighborhood and no
42 convenient parking. And that could, in fact, have remained a problem if you had two
43 fields. But the Planning Board's new proposal moves the field to the west, provides
44 parking directly adjacent to the field with access from University Boulevard. So the



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1 parking problems that the neighborhood has experienced should significantly decrease,
2 if not be eliminated, with access from University Boulevard. Of great significance,
3 operational issues. We've heard that there are operational problems not only at this
4 park, but I believe the Parks Department said approximately 16 parks where they're
5 having significant operational issues. I think this is absolutely critical, not something that
6 can be ignored, and the Committee felt very strongly that these issues needed to be
7 tackled before design begins on this park. And design is not anticipated to begin until
8 FY12. So you will have a chance of another CIP before anything ever starts on this park
9 to make sure these issues are addressed, and the Committee asked that it be able to
10 focus on the operational element of this in the next couple of years to try and address
11 that issue. Quite honestly, my concern would be because the operational problems in
12 parks tend to be geographically clustered, if we get to a point of saying that we are not
13 going to build field in areas where we're having operational issues, you are going to
14 have geographical areas of this County with no fields. And that is a critical concern.
15 Cost of the renovation. The updated cost is about 5.3 million, and I do want to note that
16 it's, the field relocation is about 1.4 million. So we've gotten a lot of testimony saying,
17 this is a really expensive field. It's not a really expensive field, the big part of the cost is
18 all of the amenities that are being added on the east side of the property and throughout
19 the property, the walking trails, the gazebo, the paths. So the field alone is not as high
20 as has been represented. On page 7, I have the summary of what the Planning staff
21 said was its final recommendation. I reprinted it here because I thought it was so well
22 stated, and what they said is, staff believes that the proposed plan which moves the
23 field to a location that would serve the needs of field users with minimal disruption to the
24 neighborhood is a good plan that provides amenities for all users. There would be no
25 loss of active recreational facilities and the park would function better as a whole. Any
26 plan that would result in a loss of recreational facilities does not serve the broader
27 community intended to be served by this local park, nor is it a wise use of public tax
28 dollars that were used to purchase this additional land. The intended purpose of this
29 project was to provide additional, active recreational resources for the down County,
30 and that purpose was clearly stated in the public record during the master plan and
31 during the land acquisition process. There are numerous acres of stream valley and
32 natural resources park land within very close proximity of this park available for those to
33 enjoy with others and experience with nature. The Committee ultimately voted 3-0 for
34 the project, but with the caveat that they really did want to focus on the operational
35 issues, and address it not just for this park, but for all the parks where there are
36 problems.

37
38 Council President Knapp,
39 Chairman Elrich.

40
41 Councilmember Elrich,
42 I've had lots of conversations with people involved in the soccer leagues, and they've
43 asked that this project be deferred. And their concern is that for the money being spent,
44 A, they would like to see the new updated facility survey that will be done in 2010. They



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1 want a discussion of other means of getting ball fields into play, including the use of
2 potentially synthetic surfaces and complained a lot about the un-usability of existing
3 fields as contributing to the lack of ability to get fields for recreational use. And they
4 think that, you're looking at this comprehensively, and with the 2010 study and making a
5 decision about how best to fill this void, whether it makes more sense to invest money
6 into existing school fields and making them synthetic and other facilities in the County
7 would make more sense than spending this much money on this park and I have had an
8 increasing hard time rationalizing, going from one field to one field, even if the one field
9 that we've got now is small. I would, from my point of view, as soon take this thing off
10 the table for the time being, and wait until we get the 2010 report and then do a
11 comprehensive. And if the result of the comprehensive study is that this is what's
12 necessary, then we'll address that in the context of what's necessary, but I would rather
13 wait until we have the broader study of that.

14
15 Council President Knapp,
16 Councilmember Leventhal.

17
18 Councilmember Leventhal,
19 Who is here in this room to speak for the County Executive? Okay. Your turn, Jackie.
20 Does the Executive Branch have any thoughts in response to Marlene Michaelson's
21 presentation regarding the precedent that is set here if we don't provide active
22 recreation in a local park where the park plan calls for active recreation and how if we
23 agree with the local community here that not bringing in people from outside the
24 immediately adjacent neighborhood, we might as well just not have facilities that do that
25 anywhere else in the County and then we're opening the door to essentially, you know,
26 setting a new policy for the use of local parks? Does the Executive Branch have any
27 thoughts in that regard?

28
29 Jacqueline Carter,
30 I can't respond specifically.

31
32 Councilmember Leventhal,
33 I didn't think you could.

34
35 Jacqueline Carter,
36 To your comments on policy except to say, when we submitted the January 15th
37 budget.

38
39 Councilmember Leventhal,
40 I know, you've got, we've got your CIP.

41
42 Jacqueline Carter,
43 Plan which.



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1 Councilmember Leventhal,
2 Right.

3
4 Jacqueline Carter,
5 The Executive did not support.

6
7 Councilmember Leventhal,
8 Okay.

9
10 Jacqueline Carter,
11 And we do not.

12
13 Councilmember Leventhal,
14 Okay, I've read the CIP.

15
16 Jacqueline Carter,
17 Recommend.

18
19 Councilmember Leventhal,
20 Right.

21
22 Jacqueline Carter,
23 This new plan either.

24
25 Councilmember Leventhal,
26 Okay. I think the absence of someone who can address these points by the Executive
27 Branch, I don't mean to pick on you Jackie, you're a very hard working person, I really
28 don't want to appear to be dumping on you in any way. I understand you're doing what
29 you're assigned to do, but I, as an elected official who represents North Four Corners
30 feel very exposed here because we're being urged to, you know, do the right thing, don't
31 set a bad precedent. Park and Planning is very strong. The Council staff is very strong.
32 They're making a very strong case, and yes, I know, there are two sentences here on
33 page 43-25 that states the Executive's position in two sentences. That's not a really full
34 description. That's not a really engaged dialogue, and I'm not picking on you Jackie,
35 honest to god. You're doing exactly what you are empowered to do and exactly what
36 you have to do, so this is not in any way directed at you personally. But I feel like there
37 is a lot of policy substance that needs to be taken up here, and I don't feel as though the
38 Executive Branch is participating richly and thoroughly in that dialogue and as a result,
39 my preference would be just to put off this whole conversation unless and until we can
40 have a real conversation including the Executive Branch that submitted this CIP. I think
41 with everything that's been raised here, and the risk of a precedent, and the strong
42 feelings among the community, and the issue that Mr. Elrich raises about, you know,
43 comparative and alternative uses of the money, my preference would be not to vote on
44 this CIP item this morning, and I really would hope that at some point the Executive



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1 Branch would be able to grapple with some of the policy challenges that we're facing on
2 this and help us grapple with them and not just leave it to the County Council.

3
4 Council President Knapp,
5 Councilmember Ervin.

6
7 Councilmember Ervin,
8 I don't think I should add any more to that. I think that was very well stated, and I
9 appreciate Councilmember Elrich's comments. And Marlene, I think your packet is
10 outstanding and it really lays out for me and for members of the community that we
11 could be taking a step in the wrong direction and we will be paying for it for a long time
12 to come. So I'm all for taking this item out for now, because we need to have a much
13 broader and robust conversation about what this portends for the future of our active
14 parks in Montgomery County, and specifically in that area of the County. So I'm in full
15 agreement with that.

16
17 Council President Knapp,
18 With whom?

19
20 Councilmember Ervin,
21 With George and Marc.

22
23 Council President Knapp,
24 I just wanted to.

25
26 Councilmember Leventhal,
27 I'm saying defer decision on this. Don't make a decision this morning, that's all I'm
28 saying, without prejudice. But within this CIP?

29
30 Council President Knapp,
31 To have a, try and get some information from the Executive Branch and bring this back
32 as an agenda item, either later today or next week or whenever we get.

33
34 Councilmember Leventhal,
35 Well, look, a point has been raised. I mean, let's just, if the question is directed to me, I'll
36 answer it.

37
38 Council President Knapp,
39 I just want, I heard two different things.

40
41 Councilmember Leventhal,
42 If I have the floor.

43
44 Council President Knapp,



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1 Sure.

2
3 Councilmember Leventhal,
4 I'll take advantage of it.

5
6 Council President Knapp,
7 Okay.

8
9 Councilmember Leventhal,
10 I mean, a significant point has been raised here, and I do think it has merit, that,
11 although four of us do represent North Four Corners, in terms of being at large
12 Councilmembers, the community feeling is so strong here that if a vote is taken in the
13 absence of a District 4 Council person, that alone will cause significant discontent. I
14 mean, that will be very much noted. And so I'm not certain as to whether it's a decision
15 that we ought to make when we have nine Councilmembers or whether it's a decision
16 we ought to make at the end of the CIP. I would be interested in the views of my
17 colleagues on that. That observation does resonate with me, that the community is
18 going to be so aggravated in this, in either event, you've got hundreds of people on one
19 side, you've got hundreds of people on another. You have a complete absence of
20 engagement from the Executive Branch, again, with all due respect to Jackie who does
21 an excellent, is an excellent analyst. So I'm not certain whether we resolve it in this CIP
22 or whether we resolve it as a CIP amendment or whether it remains unresolved. I don't
23 have enough information before me today.

24
25 Council President Knapp,
26 Let's.

27
28 Councilmember Leventhal,
29 And particularly lacking is a policy statement from the Executive Branch as to how does
30 this fit with our overall views on local parks and active recreation, which I'd like to hear
31 the Executive Branch's views on.

32
33 Council President Knapp,
34 I would like to propose if we could get, I'm not sure where the, here from the OMB
35 perspective, I'm not sure where that would come from, but to the extent that we could
36 get some feedback or we expect a policy decision or some policy feedback or that the
37 County Executive is not going to weigh in on that, so we could at least know that we're
38 not going to get information. If we could.

39
40 Jacqueline Carter,
41 I can follow up on the policy aspect of it. Okay. But we, he has been briefed on the new
42 proposal and he wasn't prepared to recommend it so.

43
44 Council President Knapp,



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1 I think if we could get fuller dialogue from the Executive, either have somebody here to
2 talk about it or to get something written sent over to us so we could take that into
3 account, that'd be great. Okay. Councilmember Floreen.

4
5 Councilmember Floreen,

6 Yeah. Gee, I wouldn't have left the room had I realized that the Committee
7 recommendation was going to be --. I have to say, we have been around this block
8 before on this project and Ms. Praisner and I, I believe, took it out of the CIP or delayed
9 this the last time we had it for exactly this reason. I mean, there is really nothing new to
10 be learned. We either support it or we don't. I mean, that was the point, but these poor
11 people, staff wise and community, have had this conversation, gee, I think before I was
12 elected, because I remember meeting with folks in a community, a 4th of July thing or
13 something where this came up. So, you know, there is really no more information to be
14 had here. Likewise, County Executive's position on this well, of course, fascinating, we
15 are the managers of our relationship with Park and Planning. We are where the buck
16 stops on these kinds of issues. And I really think there is a resolution. You know, if you
17 don't support it, fine. If you want to come attend all the PHED Committee meetings and
18 review the prose plan and everything else, great. But there is a tremendous amount of
19 history and staff both in the Park side and on our staff have pretty well described the
20 history. There is a lot of data, there's a lot of analysis, and of course, there's still a
21 conversation that's ongoing which is typical with most of these kinds of decisions, where
22 folks aren't supportive of an initiative. But I really am bewildered as to what more is to
23 be gained, and I think it's, you know, are people going to say well we shouldn't vote on
24 the full budget, or even have straw votes until the new person is in place here on
25 anything that's tough. Because we're going to have a very busy May, then. Last week.
26 You know, vote for it or don't vote for it. That's fine. But I think we should resolve it.
27 There's no more new information to be had on this guys. Councilmember Trachtenberg.

28
29 Councilmember Trachtenberg,

30 I actually would concur with Councilmember Floreen on this. I really do think there's
31 been adequate conversation about it. I would agree with my colleagues that having
32 some official policy remarks by the Executive Branch would be helpful, but I don't see
33 the need to delay any kind of decision making on this. I believe that staff's memo is
34 quite comprehensive. It lays out the history and clearly the options. And I would fully
35 support what the Planning Board has recommended and what the Committee has
36 recommended as well. I just don't see the wisdom in postponing a decision which really
37 is an important one to make. And I would go back to one of the things that Marlene
38 shared with us, which is even if we go ahead there is really nothing that's going to
39 happen in the window of the next two years. And perhaps in that two year window, we'll
40 be able to have some constructive dialogs with both the Executive Branch and again, on
41 a regular basis with the community.

42
43 Council President Knapp,
44 Councilmember Berliner.



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Councilmember Berliner,

Ms. Praisner's name has been invoked in this conversation. I was wondering whether anybody could speak definitively given that this issue has been around for some period of time, as to what her views were with respect to this matter.

Marlene Michaelson,

This is my recollection. I haven't checked the record or gone back to it. At the time this was first proposed in the CIP, it was for a two field option, and only a two field option. And while Ms. Praisner never, to me, or I think publicly said she did not support that option, she felt that the Planning Board needed to look at alternatives. It needed to look at a one field option. It needed to look at the zero field option. Which it did.

Councilmember Berliner,

Dr. Hanson, would you care to comment?

Royce Hanson,

Well, I'm a relatively newcomer to this saga, but since I've been at the Board, we've held two hearings on the North Four Corners Park. The first dealt with the possibility of having a two field option with the field closest to the neighborhood being less active but having two fields. The Board, after hearing a lot of testimony from the community, sent it back to the staff to review again and to come back to us with additional alternatives that could be considered. And after considering those alternatives and hearing further from the community at the same time, we asked that the plan be modified to result in what you see before you. Now, Mr. Riley is here and he can take you through the five-year process if you wish to do that to see how the plan evolved. But basically it was the judgment of the Board at the end of all of this back and forth that first, this is a local park, that there is a need for ball fields in the area, that this is a suitable location for a ball field, that a field can be provided on this site with direct access from University Boulevard which would reduce, if not fully, at least quite substantially, the impact on the community that I think they have justly complained of. The improvements on the other side which essentially eliminate the other field as a permissible or practice field so that it becomes passive open space with additional improvements on both sides to make this a park that can serve both the local neighborhood and the local area for some of its active recreational needs seemed to us to be a reasonable and effective use of this site. We are constrained in the number of sites that we have down County where additional fields can be added. And as Ms. Michaelson has said, local parks with three exceptions all have fields, some as many as three, usually two, some just one. But we felt that given the valid concerns of the community about the way in which the field which is really in their neighborhood had been used that this made a, it can't quite be called a compromise, but a result that works for both the neighborhood and the local users.

Councilmember Berliner,

Thank you Mr. Chairman.



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Council President Knapp,
Councilmember Leventhal?

Councilmember Leventhal,
I just want to clarify. The Park and Planning's proposal is that the existing soccer field would no longer be used as a soccer field. The soccer field would be moved closer to University Boulevard.

Royce Hanson,
That's correct.

Councilmember Leventhal,
And I don't know, it may not be in order to call the community representative up, and I'm not asking to do that, but maybe Marlene can answer. Is the prevailing opinion of the opponents to leave things as they are or to get rid of all soccer fields in North Four Corners Park?

Marlene Michaelson,
I think the preference is to not have any soccer at all or, the alternative, and we have heard different views on this, it's not a monolithic community, but the alternative is to keep the east field but only have it permitted for very limited youth practice and not play. And I believe that's the way it's operating now, is youth practice. Mike, you want to jump in if I'm describing it incorrectly?

Park and Planning Staff,
No, that's correct. The existing field used to be permitted for adult play until we began working on this facility plan and addressing various operational concerns the community raised, including parking problems and cut through traffic in the residential streets. We restricted that field to youth only permits. So the existing field in the park is permitted only to youth play.

Council President Knapp,
Councilmember Elrich.

Councilmember Elrich,
I wanted, I mean, [INAUDIBLE].

Council President Knapp,
I'm not sure, I understand she represents a perspective, but I'm not sure that's necessarily representative of all the perspectives, so I think unless we start bringing everybody up, then.

Councilmember Elrich,



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1 My other comment is this, the last representations I had from Ms. Praisner's office were
2 that Marilyn was supportive of this compromise. So that is the last information that I had
3 from her.

4
5 Council President Knapp,
6 Alright, so. And.

7
8 Marlene Michaelson,
9 If I can add just one more thing. If you do nothing, you keep the fields, if you do nothing
10 at all, you keep the field on the east side adjacent to the community where you're
11 dealing with issues about.

12
13 Councilmember Leventhal,
14 Which is what the County Executive has recommended. Do nothing.

15
16 Marlene Michaelson,
17 Exactly.

18
19 Councilmember Leventhal,
20 That's the County Executive's recommendation.

21
22 Marlene Michaelson,
23 So in my view, that actually has a greater impact on the community than the
24 compromise presented by the Planning Board.

25
26 Council President Knapp,
27 Okay. Let's go, so.

28
29 Councilmember Elrich,
30 And just to be clear, I mean, my view is also that that field should stay as active use. I
31 would not support turning this into a passive park and losing all the soccer fields. My
32 concern is one soccer field for another soccer field \$5 million later, is this the best way
33 to do that.

34
35 Marlene Michaelson,
36 I think regardless of what you decide on soccer, there is probably a need to invest in
37 some of the amenities for this park so some of these costs will not go away regardless.

38
39 Council President Knapp,
40 Okay. So, we have before us the Committee motion which was to proceed as
41 recommended by Park and Planning. Is there any other additional motion to be made?
42 Okay. Then the Committee motion stands and we move on to the next item. Restoration
43 of Historic Structures.



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1 Marlene Michaelson,
2 Restoration of Historic Structures, for years the CIP was funded at approximately
3 300,000. Last year the Commission undertook a strategic plan to identify what all their
4 historic sources were and what needed to be done. As a result, they've asked that the
5 annual appropriation go up to \$900,000. The Executive only supported taking that to
6 350,000. What the Committee is recommending is to fund the full amount \$900,000 per
7 year in FY10 and FY11, in part looking at the projects on page 8. There are a number of
8 high profile projects that they think really need to be funded. The Committee was also
9 very encouraging that the Department look for private money to fund at least some of
10 these high profile projects because there might be some grant opportunities. So
11 ultimately the Committee's recommendation is 900,000 for FY09 and FY10. Go down to
12 the Executive's amount of 350 in each of the subsequent years, but re-evaluate this
13 when you get to the next CIP to see whether you need the original amount. Okay. Rock
14 Creek Trail Pedestrian Bridge. This is a project that's been in the CIP for some time. It's
15 funded by a combination of County money, and state, and federal money through the
16 IST Program. The Committee ultimately voted 2-1 on this. Councilmember Floreen has,
17 since the project was first proposed, opposed it, so she has been consistent, believing
18 that it's likely to have limited use and it just doesn't justify the cost. The other two
19 Committee members felt that given how far this had been in obtaining federal and state
20 funds and the fact that the agency was ready to let contracts, that this was too late a
21 time to try and go back on this project and that it would be a worthwhile project and
22 should move forward. Wheaton Tennis Bubble, this is a project that is funded 75% of
23 state public open space, 25% County money. The County Executive recommended
24 funding design only and pulled out the County funding for construction. However, the
25 way POS works, you cannot fund design only. And so if you were to follow his
26 recommendation, you would not be able to fund this project at all or would have to be
27 total County funding, and so the Committee supports the project as requested by the
28 Parks Department with full funding for design and construction.

29
30 Council President Knapp,
31 Okay.

32
33 Marlene Michaelson,
34 Okay. The next group of projects are ones that had somewhat minor changes. Do you
35 want me to take you through those one by one or by.

36
37 Councilmember Elrich,
38 Quickly.

39
40 Marlene Michaelson,
41 Quickly, okay. Quickly. One by one. Ball Fields Initiatives, this is a project where the
42 Executive supported what was in the approved CIP and not the requested increase
43 beginning in FY11. The Committee agreed to keep it at the Executive recommended
44 level of funding but to re-evaluate in FY11 when the funding amount would actually



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1 change. Black Hill Trail Renovation and Extension. The Executive is supporting total
2 funding, change the expenditure schedule. The Committee agrees.

3
4 Council President Knapp,
5 Okay.

6
7 Marlene Michaelson,
8 Brookside Gardens, Large Cost Increase. This is a good example of a case where the
9 design was funded and then there was a big gap until construction. In the meantime,
10 WSSC had new requirements that had to be factored in, and so there is an increase,
11 but the Committee supports it as submitted.

12
13 Council President Knapp,
14 Okay.

15
16 Marlene Michaelson,
17 Darnestown Square Heritage Park. This is a new urban park adjacent to the
18 Darnestown Village Center, be funded by POS and Park and Planning bonds and the
19 Committee supports it. Enterprise Facility Improvements. This project is recommended
20 to increase from 100,000 a year to 200,000 with the addition of POS money, but the
21 Parks Department has just completed analysis suggesting there is a much greater back
22 log of projects and deferred maintenance, and so this is just a heads up that chances
23 are good they will have to come back on this project. Evans Parkway Neighborhood
24 Park is also a new project to refurbish an existing 40-year-old park. Again POS funds
25 and Park and Planning bonds and the Committee supports it. Falls Road Local Park.
26 This is a new project to resurface the rubberized surface in the playground that is
27 designed for children of varying abilities and also to expand the parking lot. This has
28 become a very heavily used park due to all the great facilities there. The Committee
29 supports that. Germantown Town Center, Urban Park. This is a project that will provide
30 a new urban park in the Town Center. From previous CIPs and/or previous cost
31 estimates, the amount of money has actually gone down due to new storm water
32 management options. The one change is that the PDF did not show a contribution, and
33 with that change, the Committee supports it. Lakewood, Lake Needwood Modifications.
34 This is to this is to provide for the dredging and the Committee, the Executive
35 recommended spreading the expenditure over two years which Park and Planning did
36 not object to, provided they can get the full appropriation at the outset, and the
37 Committee supported this project. Laytonia Recreational Project. This is a project where
38 once again, the Executive has made minor changes in the funding schedule and the
39 Committee supported it with the changes recommended by the Executive. Legacy Open
40 Space. The Executive supported the full funding but did not support Park and Planning's
41 recommendation to have 250,000 in current revenue that will enable them to do one-
42 time costs to secure and stabilize properties, and the Committee supported the
43 Planning Board requests for those funds and recommends a change in the source of
44 funding. Minor New Construction Non-Local Parks. This is one where the Commission



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1 is requesting an increase to 225,000 to cover all the parks. The Executive supported it,
2 except not in FY09 and FY10 for fiscal reasons, and the Committee supported the
3 original request of the Commission. PLAR Local Parks. This is, the only difference in
4 this project is that it's going to increase by 300,000 per year to address some of the
5 issues in the park activity buildings and the, or the park recreational buildings, and no
6 decision has been made yet on those buildings. I know those are somewhat
7 controversial, but this is a placeholder to begin addressing whatever needs to be done.

8
9 Council President Knapp,
10 Okay.

11
12 Marlene Michaelson,
13 Non-Local Parks, Pillar. This project will continue at 1.5 million a year, but in FY09,
14 there is a little bit of the budge up due to the, some expected state and federal aid.
15 Pope Farm Nursery. This is a project where we had good news that the cost actually
16 decreased from when the original CIP was submitted due to the receipt of bids. And so,
17 the cost to this project will actually come down 505,000.

18
19 Council President Knapp,
20 Alright. Don't spend it all in one place.

21
22 Marlene Michaelson,
23 Yes. Rock Creek Sewer System Improvements. This project funds the renovation, and
24 it's a new project of sewer lines serving facilities between Avery Road and Lake
25 Needwood. The Executive, for fiscal reasons, has moved around the expenditures
26 schedule but the project would still end at the same period and the Committee
27 supported it. South Germantown Recreational Park. This is the soccer plex portion of
28 the park, and there will, it, phase 3 is yet to occur. We did get some testimony on BMX
29 park and a skate park, and this is something that the Department said they are looking
30 into, and the Committee asked that they explore the needs of the biking community in a
31 broader sense.

32
33 Council President Knapp,
34 I'd also like to get some feedback. I know that this tennis facility thing has been out
35 there for quite some time and something was supposed to have been issued last year
36 from our RFP perspective, I know with changing personnel and whatever, that probably
37 has kind of has gotten lost in the shuffle, but I'd like to try and get some sense if we
38 could figure out what the timing is for that?

39
40 Mike Riley,
41 If I may, that RFP actually has been out on the street for several weeks.

42
43 Council President Knapp,
44 Okay.



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1
2 Mike Riley,

3 To, as you know, we had a lease for an entity to develop the Germantown Racket and
4 Fitness Center, that fell through.

5
6 Council President Knapp,
7 Okay.

8
9 Mike Riley

10 We have got a new RFP out on the street.

11
12 Council President Knapp,

13 Okay. And do we, and when is the closing date for that?

14
15 Mike Riley,

16 I will get you that date, I'm guessing in about a month.

17
18 Council President Knapp,
19 Okay. Great thank you.

20
21 Marlene Michaelson,

22 Okay, and the final project in this category is the Woodlawn Barn Visitor's Center. And
23 this is to have a new visitor's center focusing on the themes of the underground railroad
24 and the Quaker experience. The Executive supports the project, but has delayed some
25 of the funding and the Committee supports the Executive recommended delay.

26
27 Council President Knapp,

28 Okay. Everything else you put as Consent Calendar items.

29
30 Marlene Michaelson,

31 Yes. Exactly.

32
33 Council President Knapp,

34 I would see if any Councilmember have gone through them and have any questions. I
35 see none, then, in the absence of any questions, that the Committee recommendations
36 stand. Okay. That's all we had for this morning. I want to remind my colleagues that we
37 have lunch with the Retired Employee Association at 12:30 in the third floor conference
38 room downstairs, and also that when we come back after lunch, Council Vice-President
39 Andrews is going to be Chair, is going to be in the chair for the public hearing and to
40 start our worksession in the afternoon. I have to be absent. I have to go to my
41 daughter's school play and should be back about 2:30. I was told I will not miss it. So I'll
42 be back as soon as I can.

43
44 Councilmember Leventhal,



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- 1 Alright.
- 2
- 3 Council President Knapp,
- 4 Alright. We are in recess until 1:30. Thank you very much.



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TRANSCRIPT
3/4/08

MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Michael Knapp, President	Councilmember Phil Andrews, Vice
President	
Councilmember Roger Berliner	Councilmember Marc Elrich
Councilmember Valerie Ervin	Councilmember Nancy Floreen
Councilmember George Leventhal	Councilmember Duchy Trachtenberg



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1 Vice President Andrews,
2 Good afternoon everybody. Welcome to the County Council chambers. For some of
3 you, this may be the first time you've been up here to the County Council, so welcome. I
4 think I do see some familiar faces in the audience, some of the people that I met with,
5 and I think Councilmember Elrich met with as well. So welcome to the County Council.
6 Colleagues will be coming in the next few minutes. We had a meeting that just got out,
7 so I think you'll see some more of my colleagues very shortly. This is a public hearing
8 on Bill 3-08, Retirement Sudan Investment Restrictions, which would prohibit the
9 Employees' Retirement System from investing in certain business conducting
10 operations in Sudan under certain circumstances, and generally amend the law
11 governing retirements and investments. The Management and Fiscal Policy Committee
12 work session is tentatively scheduled for Thursday, March 6, at 2:00. The record will
13 close following this hearing. However, we continue to read anything that we're sent
14 throughout the process. So, I want you to not be dissuaded from continuing to contact
15 us if you have additional information to share, or you want to respond to something
16 you've heard or the like. Before beginning your presentation, and we'll have five people
17 who have signed up to testify today, I'll have all five come up at the same time to the
18 front. Please state your name clearly for the record, and push the button, which turns on
19 the microphone, so that we can hear you outside the room. And this is televised, so you
20 should be aware of that as well. We have a panel of five people, and please come up
21 when I call your name. Kelda Caldwell from Board of Investment Trustees; Brian Banks
22 from the Sudan Divestment Task Force; Bess Teller from the Jewish Community
23 Relations Council; Harriett Shugerman, individual; and Maria Sebastian, Students for
24 Change in Darfur. Welcome everybody. Kelda Caldwell, you're first. Please push the
25 button and proceed. And each of you has three minutes. When the buzzer rings at three
26 minutes, please stop or finish the sentence that you're in the middle of. Thank you.

27
28 Kelda Caldwell,
29 Good afternoon. For the record, I'm Kelda Simpson, Chair of the Board of Investment
30 Trustees, which oversees the investment programs for the County's three retirement
31 plans. I am here today on behalf of the Board to testify on Bill 3-08, Retirement Sudan
32 Investment Restrictions. The proposed Bill would prohibit certain investment managers
33 hired by the Board of Investment Trustees to invest funds for the retirees -- the
34 Employees Retirement System trust from investing in the financial instruments issued
35 by specific companies that are doing business in Sudan under certain circumstances in
36 order to influence the government of Sudan to end the atrocities in Darfur. As
37 individuals, every member of this Board shares the revulsion felt worldwide about the
38 genocide in Darfur conducted by the current government of Sudan. The occurrences
39 documented by the United States government and various humanitarian groups are,
40 and should be intolerable in any civilized community. The Board fully understands the
41 efforts of those striving to address this crisis. However, in considering divestment, we
42 would like to bring the following matters to the Count's attention. The Boards investment
43 authority comes from the Montgomery County Code and subjects the Board to a duty of
44 loyalty and a duty of prudence. These duties are the same standards found in the



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1 Employees Retirement Income Security Act, or ERISA, which governs private
2 retirement plans. The Department of Labor interprets the duty of loyalty to prohibit
3 fiduciaries from subordinating the interests of participants and beneficiaries in their
4 retirement income to unrelated objectives. The duty of prudence prohibits investment
5 decisions from being influenced by non-economic factors unless the investment
6 ultimately chosen for the plan when judged solely on the basis of its economic value
7 would be equal to or superior to alternative available investments. The recently enacted
8 federal law, the Sudan Accountability and Divestment Act of 2007, provides that a
9 [inaudible] of fiduciaries are still subject to the Department of Labor interpretation of
10 economically targeted investments. Applying the Department of Labor standard, which
11 is determining if an investment is equal to or superior to another investment, may be
12 difficult or impossible for the Board to determine. The Bill should clarify whether the
13 Council intends for the Board to ignore the currently applicable prudent investor
14 standard in order to divest investments in companies that conduct business with Sudan.
15 Secondly, divestment comes with associated costs. These costs may include an
16 increase in the County contribution and in the end funded liability currently at 700 million
17 for the ERS -- .

18
19 Vice President Andrews,
20 Go ahead and finish your sentence.

21
22 Kelda Simpson,
23 Unfortunately it's a long sentence.

24
25 Vice President Andrews,
26 Well if you want to summarize it briefly.

27
28 Kelda Simpson,
29 Well the costs are costs for hiring a consultant, to search for and certify the companies.
30 The next is staff administrative costs associated with the requirement that we identify
31 the specific involvement of the companies. Then staff administrative costs related to
32 screening the manager's portfolios, obtaining and maintaining the lists of companies,
33 transaction costs, which are incurred by selling the securities, and replacing the
34 securities; lower potential return. And also potential lower returns. And potential
35 termination of existing investment managers who are unwilling to accept portfolio
36 restrictions.

37
38 Vice President Andrews,
39 Okay. All right. Thank you very much. And you are all -- you, as everybody else is
40 welcome to come to the work session on Thursday in the MFP Committee. All right,
41 Brian Banks, you're next. Ms. Simpson, please stay at the table. We will have questions
42 for the panel after everybody has a chance to speak.

43
44 Brian Banks,



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1 For the record, my name is Brian Banks, and I work with the Sudan Divestment Task
2 Force. Thank you for the opportunity to present the policy of targeted divestment. To
3 begin with, this policy, based on the Sudan Divestment Task Force model legislation,
4 has been crafted with the advice of several fiduciaries with the goal of making
5 divestment first and foremost a financially prudent action. This policy insures the safety
6 of returns in several ways. To begin with, I wanted to reference the Sudan
7 Accountability and Divestment Act that was mentioned, of 2007. This act states
8 explicitly that it is the sense of Congress that it is not a violation of fiduciary duty as
9 written in ERISA to divest following the guidelines present in both this policy and the
10 Sudan Accountability and Divestment Act. Further, the targeted model of divestment
11 focuses on just a handful of highest offending companies. These companies,
12 approximately two dozen out of over 800 foreign companies operating in Sudan, have
13 been surgically targeted for their role in the genocide. Unlike prior broad-based
14 divestment campaigns targeted, Sudan Divestment works to identify and sever the ties
15 between the largest contributors in the genocide in Darfur. Additionally, this limited
16 number of companies makes divestment a safe option as exposure is limited. U.S.
17 sanctions prohibit corporations -- domestic corporations from operating in Sudan, and
18 as such, no U.S. companies would be targeted for divestment. In states that are
19 currently considering this policy, none have had more than 0.3% of their total
20 assessments exposed to these companies with most states experiencing a statistic
21 below 0.1%. In Montgomery County this figure is likely to be lower, as this policy does
22 not require divesting from any commingled funds, which many others have divested.
23 There are several services provided for targeted divestment to decrease costs. The
24 Sudan Divestment Task Force employs a full-time research staff, which issues a
25 quarterly report on the highest offending companies, freely available. This eliminates or
26 removes the need for a consultant, as this research is already done and conducted and
27 updated. This comprehensive report, which includes the specific operations of the
28 highest offenders, makes extensive research unnecessary. Further, to simplify the
29 process, the Sudan Divestment Task Force furnishes many of the necessary materials
30 that would otherwise have to be contracted out; and these are again free of charge.
31 Along with security identifiers, the Sudan Divestment Task Force also provides
32 engagement letters making the letter writing engagement process far simpler. Finally,
33 it's important to look at the specific investments targeted. No industry is uniquely
34 situated in Sudan, and as such, any investments in a particular industry can be
35 reinvested in the same industry elsewhere. The Sudan Divestment Task Force recently
36 completed a peer-replacement survey where peers were identified by market
37 capitalization, industry classification and geographic region. After identifying peers, it
38 was determined that the highest offenders underperformed their peer group by 54.75%
39 over one year, 20% over three years, and 2% over five years. The financial prudence of
40 this movement has been demonstrated by its track record. Twenty-two states have
41 divested from Sudan, 15 of which have used the exact same model as the one being
42 considered today. Notable in these statistics is that funds in several states have
43 adopted the -- the funds in several states have adopted this policy determining that it
44 conforms with the responsibilities as fiduciaries, including New York and Mexico.



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1
2 Vice President Andrews,
3 Thank you very much. Bess Teller.

4
5 Bess Teller,
6 Good morning, my name is Bess Teller. I am a member of the Board of the Jewish
7 Community Relations Council of Greater Washington, on whose behalf I am speaking.
8 The JCRC is an organization that represents more than 100,000 Jews who participate
9 in Jewish organizations, synagogues and agencies throughout Montgomery County. We
10 urge you to support the passage of this Bill that will allow our county to do even a small
11 part toward ending the genocide in Darfur. The Jewish community is deeply concerned
12 and outraged by the ongoing tragedy in Darfur. The U.S. Congress, State Department
13 and President, as well as other world leaders, have recognized the situation as
14 genocide. The crisis in Darfur is an extreme case whereby government is responsible
15 for a genocide campaign against part of its own population. The Janjaweed militia has
16 brutally murdered tens of thousands of civilians in Darfur with the encouragement and
17 active support of the Sudanese government. Two and one-half million people out of
18 Darfur's total population of 6 million have been forced from their homes into internal
19 camps and other squalid places of refuge. Another 300,000 have fled to neighboring
20 Chad. More than 400,000 people have died from violence, disease and other conditions
21 related to forced displacement and insufficient access to humanitarian assistance.
22 Targeted divestment is the removal of investments in companies that are directly or
23 indirectly helping the Sudanese government to perpetuate genocide, a campaign to
24 divest from Talisman Energy, which was known to be helping Sudan in its civil war with
25 the south, caused its stock to drop by 1/3 and forced them out of the Sudan. This
26 divestment campaign, along with sustained diplomatic efforts, hastens the Sudanese
27 government's peace agreement with the south in 2005, and is illustrative of how
28 divestment affects the Sudanese government's behavior. Currently more than seven
29 states, including the state of Maryland, and numerous municipalities, academic and
30 other institutions have chosen to disengage themselves financially from the businesses
31 that are fueling Sudan's genocide in Darfur. We urge you to vote in favor of this
32 legislation, which would require selected divestment of Montgomery County pension
33 funds from the companies that are most directly involved with the genocidal campaign in
34 Sudan. Last Wednesday's Gazette editorial stated that this legislation is too much of a
35 distraction and detracts from more important issues at home. This legislation will cost
36 almost nothing financially to the taxpayer, and can possibly save thousands of lives and
37 ease the lives of millions of people. The Jewish community doesn't think that that is a
38 distraction, nor that there are any more important goals than trying to save a life. With
39 witnesses to the holocaust thankfully still living among us, they serve as a reminder that
40 it is incumbent upon us to do all that is in our power to stop this generation's genocide
41 so that we may all actually live to witness never again.

42
43 Vice President Andrews,
44 Thank you for your testimony. Harriett Shugerman.



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1
2 Harriett Shugerman,
3 Hello, for the record, I'm Harriett Shugerman; that's S-h-u-g-e-r-m-a-n. My husband and
4 I have been residents of Montgomery County for 34 years. Our two sons were educated
5 in our public school system. The schools and the culture of our county have informed
6 and inspired our social activism. As a Jew, I feel a responsibility to work to ensure that
7 our community and the world respond to the Darfur genocide in a different way than we
8 did to the holocaust and to Rwanda. In 2005, I co-founded the Greater Washington
9 Jewish Task Force on Darfur, and then the Darfur Interfaith Network. My testimony
10 today is based on my experience with grass roots activists and staff of three major
11 organizations; the Save Darfur Coalition, the Enough Project, and the Genocide
12 Intervention Network. Over three years ago, the Congress passed a resolution
13 condemning the atrocities in Darfur as genocide, and urged President Bush and the
14 international community to take appropriate action in ending it as soon as possible.
15 However, despite multiple actions and measurements by governments and the U.N.
16 Security Council, the Sudanese government consistently reneges on agreements. Now
17 a nationwide divestment campaign is viewed as a critical tactic. Divestment was just
18 about the most effective tool to end the South African Apartheid. Divestment from
19 Sudan has rapidly spread in the United States over the last two years. Over 100 U.S.
20 institutions, including 22 states and 58 colleges and universities, have divested
21 including the University of Maryland and the Johns Hopkins University. MCPS is
22 managed with the Maryland State Fund and has thus already divested. Montgomery
23 County is one of the most diverse, well educated and socially aware jurisdictions always
24 promoting ethnic tolerance and justice. Do we really want a County budget that receives
25 some of its revenue from such egregious sources? Let's deal with the very real local
26 economic problems facing us, but let's raise revenue from sources consistent with our
27 County values. I disagree with some who have raised concern that passage of the
28 Divestment Bill is a slippery slope. Divesting from Sudan does not set a precedent for
29 divesting from other countries or for other causes; this genocide and persecution
30 ongoing even as we speak presents special circumstances that require special
31 attention. As long as the mass rape and ethnic cleansing continue in Darfur while we
32 have this substantial and concrete opportunity to effect change, it is very much a
33 Montgomery County issue. Montgomery County should be among those governments
34 willing to employ divestment as a very strong and effective tool. Thank you.

35
36 Vice President Andrews,
37 Thank you. Maria Sebastian.

38
39 Maria Sebastian,
40 Good afternoon. My name is Maria Sebastian, and I am the Cofounder and the Co-
41 President of the school club, Students for Change in Darfur. I've been an advocate for
42 Darfur for some time now, and I've been able to witness the positive progress that the
43 world has made in addressing this genocide, such as the U.N. resolution last year, 17-
44 69. And I've been leading this group through numerous different events ranging from a



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1 march in Washington D.C. to film screenings in Collins. But aside from all this positive
2 activism, I've also seen the negative drawbacks where violence has broken out in the
3 Chad, and the Sudanese death toll continues to rise. My point is we can't stop now.
4 Whether positive progress or negative drawbacks, we must set -- apply strong and
5 steady pressure if we are to ever achieve positive diplomacy with Sudan, and if we are
6 to ever see an end to this genocide. Montgomery County is one of the leading counties
7 in this nation and is extremely privileged to have the occupational and educational
8 opportunities that we do. It is also extremely lucky to have something that we often take
9 for granted and forget, and that is appreciation for diversity. Students for Change in
10 Darfur, for example, is extremely blessed to have so many different people involved in
11 the common cause to end genocide. My friend Edward is from Chile, Sarah is from
12 Afghanistan, and Adora from Nigeria, all join me today. Despite our differences in age,
13 interests and nationality, we are all here united by our bonds as human beings to
14 renounce suffering and to uphold the intrinsic human rights that are entitled to all of us.
15 As a human rights activist I admit I have often been frustrated by the international
16 communities' inadequate response to this genocide. But what is also equally important
17 is that if we take stand here at home at Montgomery County. As I speak you to you
18 today I cannot fully express how completely thrilled I am that my own County has taken
19 this monumental step in addressing and alleviating the rampant poverty and suffering in
20 Sudan. The Bill introduced recently is a crucial step this County must take to achieve
21 these goals, and it also serves as a demonstration of Montgomery County's leadership
22 in this country. So hopefully we will soon be the second County in the entire nation to
23 have divestment from Sudan. While we understand that this Bill is only one among the
24 many steps that we must take to see an end to this genocide, we also know that we
25 must do absolutely everything in our power as Montgomery County residents, as
26 United States citizens, and most importantly, as simple human beings. Thank you.

27
28 Vice President Andrews,
29 Thank you. And good timing. Thank you all for your very well presented testimony. We
30 have a couple of questions up here. Councilmember Berliner.

31
32 Councilmember Berliner,
33 Thank you, Vice President, but I see that the sponsor's light is also on, and I would be
34 delighted to defer to the prime sponsor, and I'll follow up.

35
36 Vice President Andrews,
37 Councilmember Elrich.

38
39 Councilmember Elrich,
40 Thank you, Roger. I'm really happy to see all of you here today. I'm really glad you all
41 got involved and glad you all did the work with the Council to make this an issue that I'm
42 confident that the Council will move forward on. And I really appreciate the testimony
43 today. And I especially want to thank Mr. Banks. You must have had a leaked copy of
44 the Board of Investment Trustee's testimony, because you couldn't have provided a



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1 better rebuttal of the points. And I've got to say; as far as the Board of Trustee's
2 testimony goes, I would be hard put to do a cost benefit analysis of genocide. Yeah,
3 that's just hard to stomach. It might cost money, but I find it very difficult to say we've
4 got to keep doing this because it's going to cost us a little bit of money. Nothing will
5 change anywhere if that's the approach we bring to public policy. I'm very grateful to the
6 work you did. You sounded like you're on the road to becoming an investment banker. I
7 certainly hope that you bring the sense of morality that you've shown here to that
8 profession if that's where you wind up. But I just wanted to thank all of you for coming
9 out here and testifying today.

10
11 Vice President Andrews,
12 Okay. Thank you. Councilmember Berliner.

13
14 Councilmember Berliner,
15 I also want to thank you. I think it's wonderful testimony. I do confess that when my
16 colleague first brought this matter to my attention, like Ms. Shugerman, I was concerned
17 about the slippery slope and wondering where do we draw the line and will that be an
18 easy thing to do. And like you, I concluded that this was so egregious, so totally
19 unacceptable that we had to take a stand and that we would deal with the fallout with
20 respect to taking that stand as if that in fact happens. But I did have some concern with
21 respect to that issue, and ultimately shared your point of view with respect to it. And
22 your name is Ms. Teller. And I also read the Gazette's editorial and felt that there's a lot
23 that our Council does that is symbolic. And government in many ways is symbolic. And
24 so if we are going to take symbolic acts I felt that this was among those that are most
25 important to take. I did want to ask a question with respect to the investment board,
26 because given the testimony that we've received as well as the 22 states that have
27 adopted this, I found it difficult to understand how you seems the board seems so
28 perplexed as to how it will achieve this result. So let me ask you, the question comes to
29 mind, for example, is that some of the energy companies, some of the Chinese oil
30 companies, they may be earning a rate of return of 100%, let's say for purposes of this
31 conversation. Is it your view and the board's view that if one were to divest from such a
32 company and that, gee, Exxon is only earning 80%, that that would be inappropriate
33 from your perspective, given that their returns in part are in fact a function of their
34 involvement in Sudan?

35
36 Kelda Caldwell,
37 Okay, this goes back to the first point about the board is subjected to a duty of loyalty
38 and a duty of prudence. And to implement our fiduciary duties, we have to invest
39 according to the benefit -- the ultimate benefit of the retirees. And if an investment that --
40 if you're going to divest and it ends up resulting in a loss, then you haven't done it in the
41 benefit of the retirees, you've done it in a particular -- a different objective. And so that's
42 -- .

43
44 Councilmember Berliner,



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1 Could we stay with that for a moment?

2
3 Kelda Caldwell,
4 Right.

5
6 Councilmember Berliner,
7 Now we've had testimony here that said that Congress explicitly recognized that when it
8 passed this law.

9
10 Kelda Caldwell,
11 Right.

12
13 Councilmember Berliner,
14 And it is that law which you are subject to?

15
16 Kelda Simpson,
17 But the law -- .

18
19 Councilmember Berliner,
20 Given -- given -- okay go ahead.

21
22 Kelda Simpson,
23 The law also requires that we're subject to the interpretation of economically targeted
24 investments, which means that we have to evaluate the investments on their economic
25 merit. Not on the -- whether or not the company is doing business that -- not -- if that
26 company is yet on the targeted list. However you defined it.

27
28 Councilmember Berliner,
29 Twenty-two states have adopted this type of policy that we have under consideration.
30 All of whom, I assume, are subject to the same constraints that Montgomery County is
31 subject to; would that be a fair characterization? Are we subject to more stringent
32 constraints than that which other states have?

33
34 Kelda Simpson,
35 I think that this needs to be answered my Amy.

36
37 Vice President Andrews,
38 Are you with the board also, or representing the board?

39
40 Amy Moskowitz,
41 Yes. I'm Amy Moskowitz from the Office of the County Attorney. I'm counsel to the
42 board.

43
44 Vice President Andrews,



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1 Okay. All right.

2
3 Amy Moskowitz,

4 Yes, other states have struggled with this issue. I belong to NAPA, which is the National
5 Association of Public Pension Attorney, and this issue is discussed all the time. And
6 [inaudible] attorneys feel as I do that, I mean, this is a very sensitive topic. And I think
7 that the fiduciary issues sort of get put on the side because the state legislators have
8 felt that there are more important issues as far as the genocide, and will sort of relegate
9 the fiduciary issues to the backburner, in other words. And I do think the federal law did
10 not ignore the fiduciary standards. What the federal law did is it said with respect to
11 ERISA fiduciaries, which ERISA does not govern Montgomery County, but it does
12 govern private pension plans, it did say that ERISA fiduciaries are still subject to the
13 Department of Labor interpretation regarding economically targeted investments. Which
14 means that they do have to consider the fact that given to investments all things being
15 equal, you can consider that non-economic factor, but you're still subject to that same
16 standard.

17
18 Councilmember Berliner,

19 I believe that our ex-resident expert would care to offer his views with respect to this.

20
21 Brian Banks,

22 Thank you. With all do respect, the 22 states that have divested, 15 of these states
23 have followed the exact same model we're looking at right here, which is this model of
24 targeted divestment. And they have all shared the same duties and responsibilities. And
25 as you had mentioned, while not exactly bound by ERISA, ERISA does influence the
26 public pension systems in some states, some counties, and some fiduciaries have
27 chosen to adopt ERISA standards. In terms of just to clarify what was done with this
28 Sudan Accountability and Divestment Act 2007, what that did say was it -- it expressed
29 the sense of Congress that this did not violate the duties of fiduciary. And as you said, it
30 is -- that does not mean that fiduciaries can neglect their fiduciary responsibilities, but
31 that this can be consistent with that. So in order to ensure that within this policy there
32 are a couple of very important things that I wanted to bring up. One is the stop-loss
33 provision, which is that if the fund drops 50 basis points then that negates the
34 divestment. Basically reducing this risk to an absolute maximum of a loss of 50 basis
35 points if it can be shown to be in response to this divestment. That has not happened in
36 these 22 states that have divested. Not a single state has done that. And I have a quote
37 that I wasn't able to get in my testimony from the Texas Retirement System that they
38 have begun to actually work on selling off these shares after their period of expedited
39 engagement. And they have said that divestment has not materially impacted the
40 returns of the fund. And we haven't received a single report of any of these fiduciaries
41 that have taken on this divestment policy, whether it's cities, counties, universities,
42 states, individuals; we haven't gotten a single bit of feedback indicating any loss in
43 returns. And I just wanted to also reiterate that one other thing in terms of this being a
44 fiduciary issue, and clearly we are talking about pensions and the highest returns are a



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1 big priority. And that balance of that versus the humanitarian concerns is obviously
2 subject to your decision. But even looking at strictly a fiduciary perspective, these
3 highest offenders outperformed -- sorry, these highest offenders, the ones that are
4 targeted to underperformed their peer group by 55% almost over one year, 20% over
5 three years, and 2% over five years. So there's clear financial evidence, and that's from
6 Bloomberg LP, that divesting of these and investing in others can in some cases
7 produce better returns. So there's no concrete argument that divestment that's been
8 made in any of these states that divestment will harm their returns. And like I said, this
9 peer group analysis does indicate that it might in fact benefit returns. And I think that's it.

10
11 Councilmember Berliner,

12 I appreciate your making that observation. Because what you did is you turned my
13 example on its head. My assumption was, for purposes of this conversation was that the
14 Chinese oil company was earning greater returns than Exxon. So you're suggesting, in
15 fact, that could be the reverse. My question is do we have a -- go ahead.

16
17 Kelda Caldwell,

18 We actually have very different statistics. Our statistics are from Wilshire Associates,
19 which a nationally known consulting firm. And they basically took a look at the major
20 indexes, the S&P 500, the Morgan Stanley Capital International All Country World Index
21 excluding the U.S., and their emerging markets index, and they found that there were
22 losses ranging from 0.1% to 0.48% over one-, three- and five-year periods. And to give
23 you a little bit of what that would mean to the -- .

24
25 Councilmember Berliner,

26 And can you tell me how they calculated that 1, 3 and 4? Is this divesting only from the
27 targeted companies or are we talking about on waiting an entire emerging market
28 portfolio?

29
30 Kelda Caldwell,

31 That means taking out those offending companies and then rerunning the rate of return
32 of that index. And the relative impact on the ERS if we were have a 0.1% decrease
33 would be \$2.7 million. And for our pension fund, we are still roughly 80% funded; we're
34 20% under-funded compared to a lot of pension funds who have adopted these
35 divestment policies, which are on average 90% funded. So they're in much more robust
36 financial shape.

37
38 Councilmember Berliner,

39 One last question if I could, Mr. Vice President. Do we have an idea as to how much
40 money we have invested in these offending companies?

41
42 Vice President Andrews,

43 Please tell us who you are.



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1 Linda Herman,

2 I'm Linda Herman. I'm the Executive Director for the Board of Investment Trustees. That
3 answer is a difficult one to answer without having a vendor run a report based on this
4 legislation. If we look at the Sudanese task force list of offending, worst offending
5 companies, we own one stock. If we look at the State of Maryland Legislation that was
6 implemented, we own about 15 stocks and bonds or roughly about \$15 million. If we
7 look at the Northern Trust, our custodian bank ran a report for us based on the Illinois
8 legislature that they had approved. There we have to divest about \$31 million worth of
9 securities. So until we hire a vendor to tell us based on this legislation how many
10 companies we have to divest from, we can't tell you for sure. And also, your legislation
11 does not require divestment; it requires us to write a letter to the offending company to
12 obtain a response from the company, and then for us to determine as a board whether
13 or not to divest. So if we have determined from a vendor or the Sudanese Task Force
14 that there's an offending company, and we write to them and they write back saying
15 we're not doing business in Sudan, somebody's wrong, the board has the obligation to
16 determine whether or not to divest. So the board would have to gain the knowledge of
17 that company. I bring to you the situation of Goodyear Tire and Rubber; they are on the
18 divestment task -- they are on a listing from one of the vendors that we would have to
19 divest from. That would mean that our manager would, if we determine Goodyear Tire
20 and Rubber has been doing business in Sudan, would have to sell Goodyear and buy
21 Firestone or some other competitive company. Now we can track that and we can track
22 them and [inaudible] our managers to say how much of a loss or gain we had based on
23 selling Goodyear and buying Firestone. However, please bear in mind that our
24 investment managers their portfolios on average range between 40 and 100 companies.
25 That's in the universe there are probably 10,000 companies they could choose from. So
26 they are picking what they believe to be the best companies in the universe, aside from
27 any economically -- economic reasons to pick that company, or socially responsible
28 reasons to pick that company. They're fiduciaries to the board and therefore they're
29 selecting companies that are going to produce the best returns for the plan, because
30 that's what their tasked with doing, the same as the board is.

31 Councilmember Berliner,

32 This was 1 million to 15 million out of how many?

33 Linda Herman,

34 We have \$2.6 billion.

35 Councilmember Berliner,

36 You have \$2.6 billion. So if one were to assume for purposes for this conversation, take
37 the mid point of your -- it was 1 million, 15 million, 30 million, the notion of your being
38 required to sell \$15 million worth of stock, and assuming that there was not exact
39 equivalency, it's impact on a \$2.6 billion portfolio is -- we are really talking at the decimal
40 point level here. We've got a lot of zeros before getting to the one.



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1 Linda Herman,
2 But remember, it's only 1/10th of 1% less return that is going to cost the plan \$2.7
3 million. So we're not talking 1%, we're talking 0.1%.

4
5 Councilmember Berliner,
6 No, no, I'm sorry. Okay, let's stay with that, because I don't know where the 2 points --
7 where the 0.1% came from, the 2.7 million. Because if -- to assume a \$2.7 million loss is
8 to take that \$15 million in shares and assume that we cannot, in fact, reinvest that
9 without going down to 12-1/2.

10
11 Linda Herman,
12 Well, we're not saying that you're going to have a loss of 0.1%; we're trying to express
13 in dollar terms to you what if the plan doesn't earn the 8% it's assumed to earn by the
14 actuary. For every 1/10th of a percent below that that it earns, it's \$2.7 million that's
15 going to be required as a future contribution. So we're not implying that at all, and I'm
16 sorry if that was confusing that the plan was going to lose 0.1%. But when you ask to
17 calculate an amount, the amount needs to be calculated based on those securities that
18 need to be sold, the brokerage commission, the securities that need to be replaced, and
19 then in the future the securities that cannot be purchased. So it's just not a one-time
20 event is what I'm trying to explain; it's a little more complicated than that.

21
22 Councilmember Berliner,
23 I thank the Vice President for his indulgence.

24
25 Vice President Andrews,
26 You're welcome. We're going to keep going with the questions, and we'll have more
27 time to explore this in more detail at the work session. But I'm glad the issues are being
28 brought out, and this has been very useful so far. Councilmember Trachtenberg.

29
30 Councilmember Trachtenberg,
31 Thank you, Vice President Andrews. This is something that is on the agenda for a
32 Management and Fiscal Policy Committee work session this Thursday, and I'm actually
33 going to direct my question to our legislature attorney, Mr. Drummer, who's here. We
34 have had a lot of dialogue with the community about the Bill, and a great deal of it in
35 support of the Bill. One notion that's been suggested to me directly has been the idea of
36 expanding the restriction beyond the Sudan, and what's the virtue of that. And I wanted
37 to get some general feedback from you, Bob, on that, or ask that that be part of what we
38 talk about within the committee. I'm not suggesting that I want to take that approach, but
39 I've actually had people suggest to me rather strongly that it might be something that we
40 want to look at.

41
42 Robert Drummer,
43 Well that's the concept of social investing, because if you start with any kind of law that
44 requires the board to divest, or invest, it could go the other way, such as investing



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1 companies doing business in Montgomery County, or something like that. You know,
2 you then steering away from the general fiduciary duties, so the question is, and I guess
3 it was alluded to earlier, is this slippery slope that Mr. Berliner mentioned if you start
4 with Sudan and you just casually go through the internet you'll find groups that are
5 maybe not as well organized, and maybe don't have quite as good an argument or
6 maybe do or don't, but are pushing divestment in many other countries, as well as
7 divestment of companies that sell tobacco or, you know, things that are on people's
8 minds, generally, you know, that we should stop or prevent. So it is an issue and I'll
9 make sure that we bring it up at the work session on Thursday. But, you know, that's --
10 and even I'll say, you know, like I said, it was last year Maryland enacted a law that
11 required divestment from Sudan -- certain companies doing business in Sudan, and the
12 beginning of the legislation starts with, you know, we find that this is such an unusual,
13 special situation, genocide is, you know, it's just in a different class from everything
14 else. And certainly there's a good argument that it is. But then this year there's a bill in
15 front of the legislature to do the same with Iran. So once you get started it's -- why not.

16
17 Councilmember Trachtenberg,

18 Well, I've had follow up conversations, again, with folks from different international
19 groups including the World Bank, and what they suggested is pretty much what you're
20 suggesting this afternoon. But I wanted to make sure to publicly ask you the question,
21 because I think the concerns that you raise are very, very valid.

22
23 Vice President Andrews,

24 Thank you. Councilmember Leventhal.

25
26 Councilmember Leventhal,

27 I wanted to respond to the Board of Investment Trustees. I'm looking at the Bill circle 5,
28 lines 101 through 105. And in the Board of Investment Trustee's testimony it out lines
29 the costs that it will have to incur as a result of this legislation if it's enacted. But the Bill
30 says that the Board may retain a professional consultant; it does not say that you must
31 retain a professional consultant. And I wonder whether -- understanding that the MFP
32 Committee is moving promptly on this -- whether the Board and our staff could look at
33 the language of the Bill to minimize the administrative burden on the Board. So I think
34 for your testimony today you've drawn out a scenario where you take a whole lot of
35 actions, you have to hire an outside vendor; the vendor has to certify a lot of things. I do
36 see in the Bill where you think you have to do that, but I think perhaps we could modify
37 the Bill such that you could perhaps rely more on other people's work, as the Bill allows.
38 The Bill says you may retain a professional consultant and review publicly available
39 information, et cetera, et cetera. It does not require you to hire your own vendor, and it
40 would seem to me that a lot of work has been done in this area, and that you might be
41 able to rely on that without expending additional funds. So I would just point that out to
42 our staff in the hope of perhaps you and our staff could work together. The fact that a
43 Bill is introduced a certain way doesn't mean it is necessarily enacted that way, and



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1 there may be modifications that the MFP Committee might want to consider that would
2 reduce the administrative cost of compliance.

3
4 Linda Herman,

5 The issue there, Mr. Leventhal, is there are probably three major vendors who supply
6 information on companies doing business in Sudan, and most of them don't agree on
7 every company that's doing business. So that's the issue. You may recall years ago
8 with South Africa -- I think somebody brought it up in their testimony. Years ago when
9 the County did have a restriction on investments in South Africa for their pension plan,
10 like other entities did in Maryland, there was one vendor supplying them information,
11 and it was called the IRRC. And they ranked companies and ranked them one or two,
12 depending on their involvement in South Africa. This is not the case with this situation.
13 And this is the problem the state of Maryland is running into time and time again is
14 vendors are supplying different information and they're having to do the research to
15 determine as good fiduciaries, which vendor has the most accurate read on what the
16 company's involvement is in Sudan. We'll be happy to discuss it with your legislator.

17
18 Councilmember Leventhal,

19 Okay, well two comments. First of all, speaking only for myself, I would not object if the
20 Bill simply enabled us to benefit from the work that's being done in the state of
21 Maryland. I mean we're a creation of the state of Maryland.

22
23 Linda Herman,

24 And they have a vendor supplying them information.

25
26 Councilmember Leventhal,

27 I understand, and so I am suggesting is there not a way to look at this Bill to see
28 whether we can benefit from the work that's already being done by other people rather
29 than hiring our own independent vendor if the state of Maryland has a vendor, perhaps
30 the Bill could be modified such that we would enable ourselves since it's we here, the
31 eight of us who are enacting this -- or working on this legislation to enable the County to
32 rely on the work -- the very same work that's being done by the state of Maryland for
33 this very same purpose. The other thing is I did want to -- you already brought it out.
34 This is not the first time this has happened in Montgomery County because we did
35 divest from South Africa. And so it's not the first time it ever happened. And as to the
36 editorial from the Gazette that Mr. Berliner referenced, you know, I don't know what the
37 Gazette's view would have been on divesting from the Apartheid government in South
38 Africa, but Montgomery County did that too.

39
40 Linda Herman,

41 But the difference with South Africa was that legislation was passed before a Board had
42 been created. The money was invested in commingle vehicles with insurance
43 companies. So it had very little impact on the pension plan, because the Bill exempted
44 commingled vehicles.



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1
2 Vice President Andrews,
3 I know that there's -- we do need to wrap this up. What I would invite folks to do, if you'd
4 like to respond to anything you've heard today, you're welcome to contact the Council.
5 Send us an email, we'll certainly read it before Thursday when the committee has its
6 first meeting on this. And then the Bill will eventually go to the full Council for a vote, as
7 the normal process ensues. So thank you all for your -- I'm sorry, I didn't see your light.
8 Ms. Floreen.

9
10 Councilmember Floreen,
11 Yes, I had a legal question. Is the county retirement plan subject to ERISA?

12
13 Robert Drummer,
14 No. Those ERISA principles are -- actually excluded government plans.

15
16 Councilmember Floreen,
17 That's what I thought based on how the Board of Investment Trustees commented. I'll
18 just raise a question as to whether it would be useful to look at some additional
19 language that I guess our duties of loyalty and prudence are set in code. And since we
20 are in the process of amending said code, this might be the time to look at some
21 adjustments to that language to permit this kind of approach. So I raise that for you to
22 take up on Thursday. That would be my suggestion in addition to some of the other
23 comments that have been made that might permit some resolution of this in a way that's
24 manageable; which is a fair point. And I think that's something that I'm sure everyone
25 would like to see done in a meaningful way, not in apparently what was a ceremonial
26 way previously. Thanks.

27
28 Vice President Andrews,
29 Thank you. Well, thank you all again. You all did a very good job; very well prepared;
30 excellent public hearing. In just a minute, we're going to begin a work session on the
31 FY09 through 14 Capital Budget and Capital Improvements Program. And we're going
32 to start -- resume our session with the Agricultural Land Preservation Easements. And
33 the Transportation and Environment Committee reviewed this budget and will present
34 its recommendations to the Council. We will give everybody is minute or two to leave
35 quietly. Okay, all set?

36
37 Councilmember Floreen,
38 We have a few items from the T&E Committee recommendations, and I will note that
39 Ms. Ervin had to leave. She went home sick, so, I'm going to pinch hit for her.

40
41 Vice President Andrews,
42 Okay.

43
44 Councilmember Floreen,



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1 And I'm looking for the right packet number.

2
3 Vice President Andrews,
4 Number 12.

5
6 Councilmember Floreen,
7 Number 12.

8
9 Vice President Andrews,
10 And Council President Knapp should be back with us soon.

11
12 Councilmember Floreen,
13 Okay. Jeremy, you want to come on down? And John? Such as it is, this is the funding
14 for the Ag Land Preservation Easements. And as you can see from the packet,
15 basically, the goal here is a funding request to bring our preservation program up to
16 70,000 acres from 68,752, right? This doesn't -- this basically involves -- you'll be glad to
17 know, Phil, resources from the agricultural transfers tax state aid investment income
18 and federal aid.

19
20 Vice President Andrews,
21 Good. Good.

22
23 Councilmember Floreen,
24 So it has no impact on our GO bonds or anything of that nature. So it's a modest
25 initiative but an important one. And so let me ask if Jeremy or John would like to say
26 anything on this. It's a modest initiative, but an important one, so let me ask if John or
27 Jeremy want to say anything on this.

28
29 Jeremy Criss,
30 Well, obviously, we are here to answer any questions that you would have. The
31 program is a pay-as-you-go initiative where we -- our appropriation is a function of the
32 taxes -- the agricultural transfer taxes that we collect. And so, we're here to answer any
33 of the questions that have. We do have a farm land preservation goal of 70,000 acres,
34 and we hope to achieve that in the year either 2009 or 2010, so we're on target with our
35 preservation goal.

36
37 Vice President Andrews,
38 Okay. I don't see any questions.

39
40 Jeremy Criss,
41 This is my colleague, John Zawitoski, who works with me as the full-time administrator
42 of our preservation programs.

43
44 Councilmember Floreen,



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1 A couple of more ardent advocates for the agricultural committee you could not find. So
2 thank you for your good work.

3
4 Vice President Andrews,
5 Thank you very much. I don't see any questions at this point, and I don't see any
6 objections.

7
8 Councilmember Floreen,
9 It looks like we're rolling along here.

10
11 Vice President Andrews,
12 No objection, that's approved.

13
14 Councilmember Floreen,
15 The next item is the Capital Improvements Program on Conservation of Natural
16 Resources having to do with storm water management and storm drains, And if Mr.
17 Hoyt and staff from DEP would like to come on down. I'm sorry more members of the
18 Council aren't sitting here right now, because they're doing very good work in terms of
19 storm water management. This can be a very controversial community issue because
20 there is -- this is the official slippery slope, where you have water running downhill in a
21 neighborhood and the solutions often involve some significant change to a community
22 appearance that's not always what people had in mind when they wanted their storm
23 water problems fixed.

24
25 Vice President Andrews,
26 Well, your work may get tested tonight.

27
28 Councilmember Floreen,
29 So they claim. We shall see. Exactly. So there's quite a bit of information here. And I'm
30 not sure if the Council wants to be briefed on it. We did have a tremendous slide show
31 in the committee on low-impact design initiatives that the department is pursuing and
32 achieving that reduce impervious surface. I think they ultimately reduce cost, and create
33 a better environmental result for dealing with out storm water management issues.
34 They've done a significant -- they have a significant project underway right this minute in
35 the town of Chevy Chase, as well, that is a very impressive and challenging imitative
36 that the County is managing in cooperation with a small municipality where they are
37 really making a big difference for that community, and handling it very sensitively with
38 respect to the impacts on community generally. Bob, did you want to say anything, or
39 Mr. Johnston?

40
41 Vice President Andrews,
42 Why don't we focus on the storm water management piece first, which is the first section
43 of the packet. And then we can talk about storm drains after that.



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1 Councilmember Floreen,
2 I just say generally speaking, the committee recommends approval of the Capital
3 Improvements Program in this area. As recommended there is a modest change in the
4 storm drain general project. But I think -- I wanted to emphasize that the Council should
5 be aware that the County is working hard on a variety of issues of particular interest to
6 our environmental advocates and to us all in terms of how we are addressing these
7 issues countywide and specifically. So, let me turn it over to you, Bob.

8
9 Robert Hoyt,
10 Thank you. And I appreciate the compliments and also the comments about the
11 outreach to the citizens. I toured the Turkey Branch project last week and was really
12 impressed with our outreach and our constant communication with the citizens,
13 because, as we said, they have an idea of what the project will be, but then when they
14 see it in their backyards it's sometimes a little different. And that kind of communication
15 is important, and we will continue to do that. We are also working to establish
16 monitoring goals so we can target our efforts and then really have a sense of the
17 improvements we see afterwards, and we'll be reporting back to you on that as well.
18 Thank you.

19
20 Councilmember Floreen,
21 Keith, are there any other elements here you'd want to highlight?

22
23 Keith Levchenko,
24 Just to note that we do have -- there's a new project in the Storm Water Management
25 Program related to government facilities. This gets to some of the low-impact design
26 things you were talking about earlier. This work was previously funded in the operating
27 budget, so although it's a new capital project, it's not new money. It's money funded
28 with water quality protection fund dollars, which were already in the base quality
29 protection fund to offset some decreases in other revenue sources. So that's also a
30 trend we're seeing.

31
32 Councilmember Floreen,
33 Yeah, and that's a good thing. Moving on to the storm drain department. This
34 particularly is the area where communities can see that they are getting more than they
35 bargained for when they ask for help.

36
37 Keith Levchenko,
38 We do have some staff that needs to come up for that topic.

39
40 Councilmember Floreen,
41 Yes.

42
43 Keith Levchenko,
44 Since that involves DPW&T.



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1
2 Vice President Andrews,
3 All right. Come on up.

4
5 Councilmember Floreen,
6 Folks want to join us? I will say that there are some pictures in the packet that show the
7 work in Sonoma, Airlawn, storm drain improvements. That was a controversial
8 community initiative a couple years ago. And we performed a certain balancing act in
9 trying to get that initiative moving forward. But it worked out to I think pretty good
10 community satisfaction. Keeping in mind, you cannot make everybody happy. But the
11 pictures are there that demonstrate that. And I will note, Mr. Berliner, this mostly in all
12 your neck of the woods, so you should.

13
14 Keith Levchenko,
15 I just passed out some color slides.

16
17 Councilmember Floreen,
18 We wanted the residents of District 1 to know that there's plenty of money being
19 expended to address -- really it's catch-up as new rules came into place for existing
20 communities; we've been able to address them. As I mentioned, the town of Chevy
21 Chase program is quite an effort. And Mr. Johnston, I think, deserves tremendous credit
22 for negotiating really a rather brisk program with complex existing community. Houses
23 built really close to each other, and there are some interesting pictures of how they've
24 handled what would ordinarily be a World War II kind of argument between property
25 owners, and resolved it really quite well. So you should know that he deserves kudos.

26
27 Bruce Johnston,
28 Well, thank you, Ms. Floreen. But actually the credit needs to go to Michael Mitchell
29 sitting two people to my left. He was the person on the front lines who was navigating. If
30 you look in there on page 27, if you will on the color pictures -- navigating the
31 underground utilities and installing these storm drain pipes is just an immense task. On
32 a few pictures there they were installing them between existing homes in very, very
33 close quarters. It is ongoing right now, and it is a great project. Thank you.

34
35 Councilmember Floreen,
36 It really is. Mr. Holmes, do you want to say anything?

37
38 Art Holmes,
39 I would like to thank Councilmember Berliner and his staff. We had a very naughty
40 problem and we came to him with some homeowners, and we were able to get that
41 done. And that allowed us to go ahead with these particular projects. So I'd like to thank
42 you very much for that.

43
44 Councilmember Floreen,



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1 It's very important.

2
3 Vice President Andrews,
4 These are striking improvements. They're really dramatic.

5
6 Councilmember Floreen,
7 Yeah. I don't know if you want to take a minute to go through them. I don't know if you --
8 the Councilmembers have it at their seats, and if they -- we had this full presentation.

9
10 Vice President Andrews,
11 I can just hold up a picture -- before and after picture for that.

12
13 Councilmember Floreen,
14 It's really quite impressive.

15
16 Vice President Andrews,
17 For the television camera, but it really is dramatic the difference some work makes on
18 the drainage and the erosion on the street and the safety of the street.

19
20 Councilmember Floreen,
21 And, frankly, I'm hopeful that the road code improvements that you all are working on
22 will help in this regard as well for future construction. It's hard stuff but real important to
23 people who wake up to find their basements inundated -- note to self, check the gutters
24 tonight. Glen Echo Heights -- this is an issue that the community brought to us a couple
25 of years ago. We asked the department to take a look at it, and this is one of those
26 situations where it's not easy to solve a community issue to everyone's satisfaction. At
27 this point, we agreed with the County Executive that given the really very tremendous
28 disagreements between members of the community, at this point and time, we are not
29 in a prepared to -- in a position to push this project forward, nor was the County
30 Executive. So, what you have before you does not include a solution for Glen Echo
31 Heights. Maybe you might want to talk about that a little bit in terms of how the
32 department views that situation.

33
34 Bruce Johnston,
35 Well, as we mentioned in the packet, I believe the -- some of the drainage situations
36 that they have in that community are very severe, and perhaps some of the more
37 severe areas in Montgomery County. The homeowners association or a representative
38 group of that community came to us about a year and half, two years ago and asked us
39 to look at a number of the storm drainage issues and problems. The erosion problems
40 that they were having with their streets and pavements that were being broken up, and
41 ongoing maintenance problems; and we did this study. As you mentioned, Ms. Floreen,
42 there is a very polarized community in that area. And I think that there are two
43 fundamental misunderstandings. One of them is the belief that DPWT wants to come
44 into their community and widen all of the streets, put curb and gutter sidewalk



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1 streetlights throughout their community; and that is not our intention, and that was not
2 the recommendation of the report by any means. We would want to have a very context
3 sensitive approach to that community, and certainly not want to disrupt their very lovely
4 community. Secondly, there's a perception that low-impact developments, or design
5 procedures would basically fix all their problems. And there would be a big
6 improvement. And establishing arain gardens and rain barrels on each of the home
7 sites would certainly help the run off problems. Typically though they only address the
8 first half-inch to one-inch of rainfall in any kind of a storm. And in Montgomery County
9 we frequently have 10 or higher more frequently storms that are three to five inches of
10 rainfall over 25-hour period. And low-impact design techniques simply will not address
11 those kinds of things. So the report recommended some other improvements. As you
12 mentioned, it was not well received and we were not able to get to any kind of
13 consensus to move forward with any kind of a plan.

14
15 Councilmember Floreen,

16 Yeah, so.

17
18 Vice President Andrews,

19 Councilmember Berliner has a question.

20
21 Councilmember Berliner,

22 I appreciate your sharing that phrase context-sensitive design, because it was in fact
23 the good people of Glen Echo Heights that brought that language to us, and that I then
24 authored that amendment to the road code bill that would -- required precisely that. So I
25 appreciate that your intention with respect to this particular community is to be looking
26 at context-sensitive solutions. And I also appreciate your observations with respect to
27 the polarization that is within the community. There are -- people feel very, very strongly
28 with respect to this. And I will say to you that you are -- that DPWT's approach to this
29 created a specter of precisely what you suggested, which was the bulldozers are
30 coming. You know, our community is going to be totally changed. And there was never
31 a place where we could get to that, if you will, middle ground of what exactly could we
32 do, what would we never consider doing. Now, there are people that probably don't
33 want much done at all. But I would be prepared to try and bring some people from the
34 community together in a low-key manner and see whether or not we can begin
35 identifying what is possible. We certainly know what's not possible. But as you
36 observed, there are serious issues in that particular area. And I tend to agreed with you
37 that the rain gardens alone are not going to address those issues. But we somehow
38 have to get past the fear factor that grips these communities when you folks come in
39 saying, we're here to help. And it's sort of like when government is here to help it gets
40 people nervous, and I'm certainly open to being a partner with you in trying to facilitate a
41 more rational conversation. We could end up to the same place, which was no way, no
42 how. But I would be prepared to see if we can continue this discussion since the
43 problems going to continue to exist.



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1 Bruce Johnston,
2 We have not disengaged from the community and certainly we would welcome your
3 assistance. We have met with different groups at different times and continue to do that.
4 But, as you were successful on the other venture, we will certainly call on you to help us
5 with this.

6
7 Councilmember Floreen,
8 I would just say -- .

9
10 Councilmember Berliner,
11 The other one was easy compared to this one.

12
13 Bruce Johnston,
14 It is. Very much so.

15
16 Councilmember Floreen,
17 I'd just say this was in response to community request. It was not that the department
18 chose to go there.

19
20 Bruce Johnson,
21 That's right. They first came to us.

22
23 Councilmember Floreen,
24 So, their challenge has been - also, you know, they players change, other community
25 members get more engaged as things move around, and then, you know, the
26 conversation alters. So, they have some excellent black jackets and a listening ear, and
27 that is certainly proven by the work they did in Sonoma. The next item, Henderson
28 Avenue, is basically the access to Wheaton Regional Park off of Georgia Avenue, which
29 was brought to our attention by the department. I think it was your idea. It is a significant
30 cost issue to basically rebuild that roadway and provide significant storm drain
31 improvements. And so we thought this was quite a significant project. However, we
32 encouraged the department to not give up in terms of looking at funding sources for this
33 because of the nature of the problem. So, it's not really in the CIP, but it's a project that
34 we hope might come back to us if their department's been able to find the funding
35 approach that works.

36
37 Bruce Johnston,
38 Certainly. As Michael pointed out to me, this is the third time that the community has
39 brought this to our attention. It will continue to be on our list of things, and we'll with
40 OMB if we can identify any other funding sources.

41
42 Councilmember Floreen,
43 And there is a list of other smaller projects that are identified on page eight, works in
44 progress for the department to work on. And that's our recommendation. This is paid for



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1 partially by state aid, partially by our storm water management fees or water quality
2 protection charges largely.

3
4 Vice President Andrews,
5 Okay, without objection, the committee's recommendations are accepted. Keep going.

6
7 Councilmember Floreen,
8 Continuing on, we've got solid waste. And since we have [inaudible] here, we'll tell you
9 about our lunch with the retired employees who said, you know when you come and
10 pick up trash from the home of elderly people, we hope that the word goes out if there
11 are unwieldy things at the curb, sometimes they just can't manage. Things like, you
12 know, tree limbs and the like. So I'll take this opportunity to pass that point on to you.

13
14 Art Holmes,
15 That has been done, and in instances where we've found it out, we've gone to the
16 backyards, what have you, to get the waste. So we will do that.

17
18 Councilmember Floreen,
19 Yes, just wanted to pass that on. Again, these items are funded entirely from the solid
20 waste disposal fund. And there are some improvements to the transfer station and work
21 going on on our landfill gas to energy initiative that I know my colleagues are interested
22 in. So I don't know if folks want to talk some more about this. I think we would anticipate
23 seeing some interesting things happening at the Gude Landfill pretty soon. So maybe
24 you might take a minute to share that information with the full Council.

25
26 Dan Locke,
27 Yeah, on the landfill gas energy projects, they are moving along quite well. Our current
28 projection is to produce and sell electricity a year from this Fourth of July. The
29 contractors that are going through the permitting right now with Park and Planning and
30 the state, they're actually a bit more optimistic that it will occur before that, but I'm not
31 convinced yet. But, I say we're going through the permitting process. We spent a lot of
32 effort updating the residents around both the Oaks and the Gude Landfill as to what's
33 going on. We've give them copies of our contracts and our permit applications, et
34 cetera. And the state has just -- MD has just scheduled informational hearings for both
35 projects some time in April.

36
37 Councilmember Floreen,
38 So, unless people have questions, the T&E Committee recommends approval of the
39 budget as submitted by the County Executive.

40
41 Vice President Andrews,
42 No questions or objections here, so it's accepted.

43
44 Councilmember Floreen,



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1 I'll turn it over to Mr. Elrich.

2
3 Vice President Andrews,
4 All right. Okay. This is the Capital Improvement Program for the Revenue Authority. Do
5 we have anybody here from the Revenue -- we do. There they are. Okay.

6
7 Councilmember Elrich,
8 I think the most controversial thing in the Revenue Authority was the discussion of the
9 Sligo Creek Golf Course, and the project has been replaced by a \$100,000 for
10 additional study of alternatives, including other ways of using the golf course as it
11 currently is.

12
13 Keith Miller,
14 That's correct, yes.

15
16 Councilmember Elrich,
17 So nothing is precluded. And so the committee recommended approval of the Sligo
18 Creek Golf Course?

19
20 Keith Miller,
21 Uh-huh.

22
23 Vice President Andrews,
24 Okay. Any questions about Sligo Creek? I don't see any. Okay, go ahead.

25
26 Councilmember Elrich,
27 We recommended approval of the Falls Road Golf Course improvements; the Little
28 Bennett Golf Course improvements, and the Needwood -- in Needwood we
29 recommended deferring until the capital plans -- until there's a Capital Improvement
30 Plan for Sligo.

31
32 Vice President Andrews,
33 All right. No questions so far.

34
35 Councilmember Elrich,
36 Okay. And Northwest is also recommended for deferral until the resolution of the Sligo
37 Creek issue.

38
39 Vice President Andrews,
40 All right. Before we go further, let's have the two gentleman at the table go ahead and
41 identify themselves for if TV cameras.

42
43 Keith Miller,
44 Sure, Keith Miller, Executive Director of the Revenue Authority.



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1
2 Michael Boone,
3 I'm Michael Boone. I'm in charge of Finance and Administration for the Revenue
4 Authority.

5
6 Vice President Andrews,
7 Thank you.

8
9 Councilmember Elrich,
10 And the other project, which is the air park project, we also recommended for funding.
11 The approval -- as submitted to us.

12
13 Vice President Andrews,
14 Okay.

15
16 Councilmember Elrich,
17 Do you guys want to say anything about the air park; what's envisioned?

18
19 Keith Miller,
20 The air park funding just relates to the air park layout plan. We're continuing to do
21 projects in regards to the original air park layout plan. The funding in that changes
22 periodically according to the 97-1/2% of the funding we receive from the FAA and the
23 state in regards to that, so that kind of dictates which projects and the timing for those,
24 but we are still under the original plan.

25
26 Vice President Andrews,
27 Okay. All right that looks like that's it. That part is accepted. All right. Item 16 is a work
28 session on the Silver Spring Redevelopment Project program and Silver Spring Civic
29 Building. This is also the PHED Committee. Please introduce yourself, Gary.

30
31 Gary Stith,
32 I'm Gary Stith, Director of the Silver Spring Regional Center.

33
34 Vice President Andrews,
35 Good to see you. Okay.

36
37 Councilmember Elrich,
38 Can you tell us anything about the Silver Spring Redevelopment Project?

39
40 Gary Stith,
41 The civic building and Veterans Plaza project is out for bid, and the bids should be
42 coming in, I think, at the end of this week is what I heard. And we should be able to
43 move forward with construction late this spring. And it will take about 14 to 16 months to



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1 construct. So we should be opening the project and having it available for public use in
2 probably the early fall of 2009. We're looking forward to it.

3
4 Councilmember Elrich,
5 And the committee recommended approval.

6
7 Vice President Andrews,
8 Silver Spring Civic Building and Silver Spring Redevelopment Program. Nope. Okay.
9 Very good. On track. All right.

10
11 Councilmember Berliner,
12 You run a tight ship.

13
14 Vice President Andrews,
15 We're moving along. Here we go. All right. Well, a lot of the good work was done by the
16 committees. The next event is item 17A, which is the Advanced Healthcare Project. This
17 would be the PHED Committee. And those at the table please introduce yourselves;
18 whenever you come up to the table, please introduce yourself for the people who are
19 doing the transcript and the TV cameras.

20
21 Praadeep Ganguly,
22 Good afternoon, Praadeep Ganguly, Director of the Department of Economic
23 Development.

24
25 Vice President Andrews,
26 Good to see you.

27
28 Peter Bank,
29 Peter Bank, Division Chief of Finance and Administration Economic Development.

30
31 Vice President Andrews,
32 Good to see you.

33
34 Jacqueline Carter,
35 Jacqueline Carter, Manager Office of Management Budget.

36
37 Vice President Andrews,
38 Hello again. All right.

39
40 Councilmember Elrich,
41 The committee's recommendations are this -- were that we not approve the \$700,000;
42 that we disapprove -- appropriate the previous \$1.4 million. The votes on the committee
43 were 2-0 with Mr. Knapp absent. The mean rationale that this is no longer the Adventist
44 Healthcare Medical building. This is basically going to be a private building owned by



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1 the developer that the Mary Centers would have occupied the bottom floor. Adventist
2 takes no responsibility for any other part of the building. The other 38,000 square feet
3 would have been what the market determined what amount to get leased or not and so
4 it ceased to be the project that it was originally brought to the Council to be, which was
5 medical office building in conjunction with the Adventist Hospital proposed expansion at
6 the time on the current campus. As we all know Adventist Hospital is no longer planning
7 to expand on the current campus; they're planning to look elsewhere. And this office
8 building no longer serves that function, as well as the other doctor offices which were
9 envisioned being in here originally are also gone. And so the only thing Adventist is
10 committing itself to support of the Mary Center, which is currently located in the
11 shopping center there. And I think is due to open -- I haven't noticed them opened yet,
12 but I've noticed that they took the paper off the windows and a lot of work was going on.
13 So the thinking is to treat this more comprehensively. There's been a discussion about
14 the so-called super block over there and redevelopment of all of the small shopping
15 center and the two groceries stores and the large lots, and doing this more
16 comprehensively; and that a project there would be better fit in to the total redesign of
17 what's going to happen over there rather than building an office building on the corner
18 with uncertain tenancy; only certain tenancy being the Mary Center. And treated as a
19 more comprehensive redo of the community -- of that area. So that's where we are to
20 not do this right now.

21
22 Vice President Andrews,
23 Okay. I see Councilmember Floreen has her light on; also on the PHED Committee.
24 And then Councilmember Leventhal.

25
26 Councilmember Floreen,
27 Well I just wanted to comment that what we heard in the committee meeting, at least
28 that this project was not moving forward and at least at this time. And just note that what
29 we recommended was to -- a reevaluation of the project and it's likelihood of actually
30 being achieved was -- that that conversation needed to be had, and that's what the
31 information we had at the committee meeting really seemed to direct. So that's as well
32 an element. The allocation of space in the building we had known previously. Mr. Elrich
33 wasn't here, but I was here then, so was aware of that, but what we -- I hadn't been
34 aware of is that this project was not as ready to go as we had previously been informed.

35
36 Vice President Andrews,
37 Go ahead, George.

38
39 Praadeep Ganguly,
40 May I address those issues?

41
42 Councilmember Leventhal,
43 May I speak first?



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1 Praadeep Ganguly,
2 Yes, sir.

3
4 Councilmember Leventhal,
5 I'd just like to provide my point of view, please. The Montgomery Cares Program has not
6 been able to achieve its goals of serving the projected number of poor uninsured
7 residents because of a shortage of clinic space. The Department of Health and Human
8 Services is actively searching for available locations to construct new clinic space, and
9 for some years Washington Adventist Hospital and Mr. Fernabak, the owner of the
10 parking lot -- the ugly empty parking lot at the corner of Flower and Arliss Street have
11 been seeking to build substantial large -- I think it's 6,000 -- I'm not sure how many
12 square feet. Robert Jepson is here if the Council President will enable -- .

13
14 Unidentified,
15 55,000.

16
17 Councilmember Leventhal,
18 55,000 square feet clinic space. The reason that the future of the building is uncertain is
19 that the Sligo Grand View Civic Association is suing to prevent the provision of
20 healthcare to poor people in the Long Branch neighborhood. The Sligo Grand View
21 Civic Association is suing -- although the Planning Board has approved this six-story
22 office building, it is now in the circuit court. The opening of the rental space in the Mary
23 Center, which is envisioned as a temporary opportunity until the larger space is made
24 available, the Sligo Grand View Civic Association is also suing to overturn the Board of
25 Appeals approval of a clinic for poor people there. Rose Crenca, former member of this
26 body; one of our colleagues who has been very active in this law suit, said last week at
27 a meeting of the Long Branch Revitalization Task Force that I and three of my
28 colleagues attended, this is a quote: "We don't want people with problems in our
29 neighborhood." That's a quote from Mrs. Crenca. If we do not fund clinic space in Long
30 Branch, which is the poorest census tract in Montgomery County, and if we walk away
31 from this arrangement, we are very clearly sending a statement that this tactic of
32 litigation to prevent the provision of healthcare for poor people is the best way to stop
33 what you don't want. So if you want a lot more litigation in the future, then de-
34 appropriate these dollars from FY08. If you want to send a signal to every civic
35 association that wants to keep services for poor people out of their neighborhood, then
36 go along with the recommendation of the PHED Committee. Because you will invite
37 litigation like you've never seen before, because it works; because it puts the status of
38 the project in jeopardy, and the Department of Economic Development says we can't
39 guarantee this think will move forward. We don't know what will happen with litigation.
40 And the support for the project folds and the government walks away, and the litigants
41 win. So if you want to continue to have all of these things in litigation, if you want to stop
42 the provision of healthcare for poor people, then go along with the recommendation of
43 the PHED Committee on this. Now we've all echoed this refrain that you've heard me
44 say, and others, what would Marilyn do? One year ago my colleagues tried to take this



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1 money away and Chairwoman Praisner of the PHED Committee stood with me in a
2 tough fight. I'm well aware that my friend and colleague, Councilmember Elrich, believes
3 that a six-story office building is not in keeping with what some of the neighbors would
4 like to see. We had this debate a year ago, and Chairwoman Praisner and I prevailed.
5 Chairman Praisner is no longer with us, and so Mr. Elrich and Ms. Floreen are now
6 going back and taking away the money that this Council already appropriated in FY08.
7 With respect to the money for FY10, I can't tell you that we know what's going to
8 happen. I don't know how the judge will rule. So if there's -- if \$700,000 is in such great
9 demand; if we truly believe that that \$700,000 is going to be the crucial piece that will
10 enable a rec center to be modernized or a school gym to be built or some vitally
11 important thing out of all of the hundreds of millions of dollars in our CIP that we've got
12 to have that \$700,000 program for FY10 for this uncertain project, well then take it
13 away. But to take away the 1.4 in FY08, I just have to say it's just mean. It's just mean.
14 And it sends a real clear signal to Long Branch. It sends a real clear signal that we're
15 not interested in investing in Long Branch. And it says something about our commitment
16 to building more clinic space for poor people. So I am opposed to the recommendation
17 of the PHED Committee. I will not vote along with the PHED Committee on this.

18
19 President Knapp,

20 Let's turn to [inaudible] on the development for perspective. And we've got a number of
21 Councilmembers with questions and comments.

22
23 Praadeep Ganguly,

24 Mr. President, we -- as I stated last week at the PHED Committee hearing, we need a
25 project like this in Long Branch to jumpstart economic development in that part of Silver
26 Spring. The good things are happening in that central business district of Silver Spring.
27 The good things are beginning to happen at the White Oak part of Silver Spring. This
28 part of Silver Spring needs a jumpstart. And we are willing and commitment to make an
29 investment, a small investment to leverage a significant private investment jumpstart
30 this part of the Silver Spring. And we are also confidence that the partnership that we
31 are going to have with the non-profit sector, which is Adventist Healthcare, a private
32 sector developer, and government that our department and other departments will be
33 good for Silver Spring and Long Branch part of Silver Spring into [inaudible]. So we
34 definitely -- we understand the uncertainty that you face and we face because of the
35 litigation. And therefore if you want to defer appropriating \$700,000 to a future date, we
36 understand that. But we are saying that the 1.4 that you already appropriated, keep that
37 money because this project will happen, and we need to make it happen.

38
39 President Knapp,

40 Thank you. Councilmember Berliner.

41
42 Councilmember Berliner,

43 I am always respectful of the County Executive when I see they're eager to speak. Was
44 there something that you cared to speak to?



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1
2 Jacqueline Carter,

3 I just wanted to comment that the 700,000 had previously been approved in FY09 and
4 recognizing the issues with the project, we had deferred that 700,000 to FY10.

5
6 Councilmember Berliner,

7 So, with respect to the 1.4 that had previously been appropriated, is that what you're
8 referring to? Or are you referring to the additional 700,000 that was?

9
10 Jacqueline Carter,

11 I'm referring to the additional 700 -- in addition to the 1.4, there was 700 that had
12 previously been approved for '09, and we actually shifted that money out of there.

13
14 Councilmember Berliner,

15 You shifted that to '10.

16
17 Jacqueline Carter,

18 Yes.

19
20 Councilmember Berliner,

21 All right. So here's what I would like to explore with the PHED Committee Acting Chair is
22 to the issue of the disappropriation with respect to the 1.4. In many of our discussions
23 previously we have put conditions in on PDF's to ensure that no dollars are
24 appropriated unless certain contingencies are addressed. I think it would be far better to
25 see if we can strike a balance with respect to those contingencies in dis-appropriating
26 these dollars. And I would be supportive of Councilmember Leventhal's motion should
27 he choose to make it, to bifurcate this so that's a separate vote with respect to the
28 deferral of the 700,000 versus the dis-appropriation of the 1.4 million. There may be
29 issues that need to be resolved prior to further appropriations, but I think we should try
30 and address it in that manner as opposed to dis-appropriating. This feels too extreme
31 for my taste.

32
33 President Knapp,

34 Okay. Councilmember Floreen.

35
36 Councilmember Floreen,

37 Thank you. Well, I'm not as familiar with what's occurring in the litigation front as my
38 good friend and colleague Mr. Leventhal. But my understanding at the committee
39 meeting was that this project was not in a position financially, economic development-
40 wise, or real estate initiative-wise to proceed. That's what we heard. The issue is
41 holding dollars that can go, of course, to other sorts of projects perhaps in this area.
42 That would be fine with me. It's a question of committing to something that's not moving,
43 and that, at least in my view, was the issue. Nothing to do with the healthcare issue as
44 has been poised. I don't particularly like this project, but I respected the fact that it had



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1 been approved previously. The fact of the matter is though that it wasn't moving along in
2 any way, as far as I could tell. And what I heard from you, Mr. Ganguly, was really quite
3 different at the committee meeting with respect to the likelihood of this project moving
4 forward.

5
6 Praadeep Ganguly,
7 Mrs. Floreen, I understand what you're saying. This is the only deal we have on the
8 table right now. We have not seen -- this part of Silver Spring -- I knew this part of Silver
9 Spring 25, 27 years ago. It has remained what it is.

10
11 Councilmember Floreen,
12 We all know that, me too. I was there. My children -- .

13
14 Praadeep Ganguly
15 What I'm saying is this is the only deal we have on the table.

16
17 Councilmember Floreen,
18 But do you have the deal? That was the question. Is there -- .

19
20 Praadeep Ganguly,
21 As far as I'm concerned, we know that we have a developer that is ready and willing.

22
23 Councilmember Floreen,
24 Not what you said last week.

25
26 Praadeep Ganguly,
27 We have a nonprofit sector partner that's very committed, and we have a possibility of
28 jumpstarting this part of Silver Spring. [Inaudible] turned it down.

29
30 Councilmember Floreen,
31 The economic development issue was never a question.

32
33 Praadeep Ganguly,
34 Okay.

35
36 Councilmember Floreen,
37 It's certainly important. But what we under -- this is going to be owned, operated and
38 managed by a private developer of some sort. Not the county and not Adventist. So
39 there are pieces that had to work here. I understood from you, quite directly last week,
40 weren't moving forward, the other pieces, the players. I mean, the idea, yeah, it's a good
41 idea, but we're down to the allocating dollars.

42
43 Peter Bank,



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1 Mrs. Floreen, during the last PHED Committee meeting, you had raised a question as to
2 where the project is, and we have informed you that in April to [inaudible], and you
3 inquired if the project was moving, and we indicated we do not have a standing legal
4 agreement between the projects. However, based on the change of market conditions,
5 we're not certain whether developer at this point would have a strong financial
6 commitment as well. And at that juncture we have volunteered that if you keep the \$1.4
7 million on the table, we will follow the legal cases, we'll work the deal out with the
8 developer to pursue whether this is a strong case of financing backup. And at the time,
9 we also confirmed that slating the money -- additional 700,000 at FY10, would not hurt
10 the project. Even if the project was to approve this fall.

11
12 Councilmember Floreen,
13 Sure, okay, well thank you. Because that's what I heard last week. That was very
14 different from what we heard from you direct.

15
16 Praadeep Ganguly,
17 We'll come back at a later time and say, give us the additional 700,000.

18
19 President Knapp,
20 Okay. So just for clarification before we -- kind going back down the line. Walk through
21 that timeline again.

22
23 Praadeep Ganguly,
24 There's a hearing in April. We will follow that. We will in the meantime engage the
25 developer/ builder for that site, and we'll figure out his level of commitment. We want
26 you to keep the 1.4 million that you've already appropriated; keep that money there.
27 We'll come back and give you an update as to how the project is progressing, and at
28 that time, you can then appropriate the additional money that will be needed.

29
30 President Knapp,
31 Additional -- .

32
33 Praadeep Ganguly,
34 700,000, yes.

35
36 President Knapp,
37 You'd hope for the additional 700,000 at that point.

38
39 Praadeep Ganguly,
40 Yes, sir.

41
42 President Knapp,
43 So you're saying that the 1.4 keep there because that puts the deal on the table.



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1 Praadeep Ganguly,
2 Absolutely, yes, sir.

3
4 President Knapp,
5 There's a deal to be done.

6
7 Praadeep Ganguly,
8 And shows that we are committed to this. And it doesn't mean that we're going to spend
9 a dime of that money.

10
11 President Knapp,
12 Okay, I'll just ask that question. Would they come back -- if this is appropriated already
13 in the CIP, is there a requirement that we have to come back if there is a deal, Linda?

14
15 Councilmember Berliner,
16 In fact I believe the last -- last time we had a conversation with respect to this is that we
17 had yet to see an agreement as between the County and the developer. There has
18 been no agreement and we require that no dollars be appropriated until we see that
19 agreement. I assume that's stays in the PDF.

20
21 President Knapp,
22 Yeah, please.

23
24 Linda McMillan,
25 Okay. It says EDF funds will not be expended until there is an agreement between
26 Adventist Healthcare, the property owner and the County Executive, which includes
27 specific performance requirements. The requirements should address the length and
28 terms of the lease, public use of the garage, the use of the building for medical oriented
29 businesses, and other EDF requirements, including fiscal analysis and job generation.
30 DED the property owner and Adventist Healthcare will keep the Council informed of
31 modifications to the project and the status of litigation.

32
33 Councilmember Leventhal,
34 This is language that Mrs. Praisner and I agreed to a year ago.

35
36 Linda McMillan,
37 This is the language in the PDF.

38
39 President Knapp,
40 Okay.

41
42 Jacqueline Carter,
43 So the \$1.4 million was previously -- .
44



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1 President Knapp,
2 Hold on. Hold on.

3
4 Jacqueline Carter,
5 1.4 million was previously appropriated as a level of commitment to this project.

6
7 President Knapp,
8 Right.

9
10 Jacqueline Carter,
11 The 700,000 is proposed for funding in FY10, so there's no -- we have an appropriation
12 request estimate for FY10, but we're not appropriating the 700,000 this year. So that
13 does not affect reconciliation for '09.

14
15 Councilmember Berliner,
16 Can I ask for clarification request? I want to make sure that we are not missing each
17 other. Are you suggesting that the PDF disclaimer, if you will, the contingency is only --
18 only relates to the future 700,000 and not to the 1.4 million?

19
20 Jacqueline Carter,
21 No it relates to the 1.4 as well.

22
23 Councilmember Berliner,
24 It's the whole thing. Thank you.

25
26 President Knapp,
27 Right.

28
29 Councilmember Berliner,
30 I just wanted to make sure.

31
32 President Knapp,
33 Okay. So we're clear on that. Mr. Elrich.

34
35 Councilmember Elrich,
36 I appreciate Mr. Leventhal completely mischaracterizing my position on this. Since I
37 supported the six-story office building there initially, was one of the first supporters of
38 the building when it was supposed to be part of a medical facility and with a clinic. And I
39 continue to support the Mary clinic in any site in Long Branch, including the site where
40 they are right now. This is not about the Mary clinic. This is about the fact that this is
41 morphed from a medical building basically the 12,000 square feet of medical and
42 43,000 square feet of spec office building, where the rents that were suggested last
43 year that would be necessary to support it on the order of \$34 a square foot, which is
44 not achievable in the Long Branch area. Which means that we are basically financing a



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1 spec office building to provide five stories of office space which cannot be rented under
2 the given rent structures in Long Branch. And that is not jumpstarting an area. In fact,
3 the greatest danger would be to create an office building that had the first floor occupied
4 and five floors of vacant space above it. You want to kill Long Branch and make sure
5 nothing happens there, do a half-baked project with one tenant and let them build the
6 spec building and not know who the tenants are for the rest of it. Washington Adventist
7 has zero commitment beyond the Mary Center. Near as I can tell, in the past year,
8 they've made it very clear the only thing they're committed to is supporting the Mary
9 Center there. And if Mr. Jepson would like to correct me if they're committed to filling the
10 rest of the office space and making sure they are doctors offices, that's fine; but I don't
11 believe that's what Adventist's commitment is anymore. And I think the economic
12 development people have made it clear that that was no longer Adventist's commitment
13 as a partner in this as a medical office building. So let's not characterize this as a
14 medical office building. Let's say we've got 60,000 square feet, or 55,000 square feet of
15 office. We're going to put 12,000 square feet on the first floor. And we have no idea
16 what's going to go on top of it. And the county should commit itself to putting \$2.1
17 million into it. I mean, the Live Nation deal has got problems. This think makes the Live
18 Nation deal look really sound.

19
20 Unidentified,
21 Thank you for saying that. I'm going to come back to you for that.

22
23 President Knapp,
24 Stay tuned. We'll get to it in a couple of minutes, I hope.

25
26 Unidentified,
27 I'd like to find out - .

28
29 President Knapp,
30 Councilmember Trachtenberg.

31
32 Councilmember Elrich,
33 I got that line from Nancy, okay.

34
35 Councilmember Trachtenberg,
36 Thank you, President Knapp. I actually found myself down at the PHED Committee
37 work session last week because I had a real interest in hearing what was going to be
38 said about this project. And I can remember quite distinctly the conversations that went
39 on here within the Council between Mrs. Praisner and Councilmember Leventhal. And
40 what I really went down to the work session to hear was to get some definition of a plan,
41 which I didn't hear last week at all. And you know, I think there's clearly a commitment
42 within this Council to support health services for the poor. I think we've made that
43 commitment over and over again. I really think what some of us are looking for today
44 and in the future is just for a more defined plan. And last week, there were conflicting



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1 statements made, and not everybody who was a player in the deal was at the table. So
2 it really was not clear to me that there was any plan. And I still feel that there is no plan
3 and I really want to see one. And so what I'm going to suggest and even make a motion
4 of is that we disapprove the funding of \$700,000, but that we leave the \$1.4 million in
5 place with the understanding that in reasonable time -- and maybe that's we need to
6 define here this afternoon, that we actually do get a definition of a plan, because clearly
7 there is a need for health services in that part of the County. But I just don't feel
8 comfortable given the times that we're in to be leaving money in place when I don't even
9 see everybody participating at the table.

10
11 President Knapp,
12 Well let me just ask for clarification. Given the language that Ms. McMillan read in the
13 PDF, is that sufficient recognizing that they have to come back and outline all those
14 pieces.

15
16 Councilmember Trachtenberg,
17 That's fine. That's fine by me. I'm not sure of everybody else.

18
19 President Knapp,
20 So we have a motion to put the 1.4 back in, and then to defer -- and then go with the
21 committee recommendation to disapprove the funding for 700 for FY10?

22
23 Councilmember Trachtenberg,
24 Yes, that's my motion.

25
26 Councilmember Berliner,
27 I'll second that motion.

28
29 President Knapp,
30 Mr. Leventhal?

31
32 Councilmember Leventhal,
33 Okay, what I heard Mr. Ganguly said is that the Executive Branch may come back to us
34 in the future when things are clearer and we understand -- and presumably once the
35 litigation is adjudicated. And we understand better what's going to happen in Long
36 Branch. So I will happily and gratefully vote for the Trachtenberg/Berliner motion,
37 looking forward to the day when the judge rules on this matter. And as Mr. Ganguly
38 said, the very first investment of any kind that we've seen in decades in Long Branch
39 can proceed, and understanding that at that point the Executive Branch may come back
40 for a further EDF appropriation. And hoping that my colleagues who have offered this
41 thoughtful and appropriate amendment will potentially look favorably, assuming that
42 things are worked through and that we're not -- by taking out the \$700,000, we're not
43 saying we will never again appropriate money -- EDF money to Long Branch if a vision
44 takes shape. I acknowledge the uncertainty in Long Branch. I live there. I know things



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1 are very uncertain there. That we might in the future appropriate 700,000 to complete
2 the commitment that was made to the developer; who I would just say, although I don't
3 know whether I would subscribe to a newsletter with, you know, I don't know about the
4 prognostications we've heard here about the likelihood of success. I tend to think that
5 the owner of the property might have some view as to whether his own investment and
6 his own risk is likely to pay off. And as far as I know, at least I spoke to his attorney last
7 week, I'm sorry she's not here; he still wants to proceed with this office building. So the
8 prognostication that we've heard that it's guaranteed to be empty and vacant and an
9 eye sore and a drain on Long Branch and all of that is not what the owner of the
10 property thinks. And I would tend to take his assessment of his own risks, since he's
11 putting everything he owns into it, rather than a politician's viewpoint as to what might
12 happen.

13
14 President Knapp,

15 Okay, we have a motion before us to continue to keep the 1.4 million in the CIP, and to
16 continue with the PHED Committee's recommendation to remove the \$700,000 for
17 FY10 from the CIP. Okay. I see all heads nodding up and down. All in support of the
18 motion as made by Councilmember Trachtenberg, and seconded by Councilmember
19 Leventhal? That is unanimous. All right, I like that progress. Moving right along.

20
21 Praadeep Ganguly,

22 Thank you, Mr. President.

23
24 President Knapp,

25 Thank you all. Okay, we now turn to Item 17B, Silver Spring Music Venue. We hope this
26 has as successful an outcome.

27
28 Praadeep Ganguly,

29 Mr. President, I think Councilmember Elrich just said he supported me, so, am I done?

30
31 Councilmember Elrich,

32 I said this one makes the other one look good. At least you would be the tenant this
33 [inaudible].

34
35 President Knapp, Let me turn to the Committee Chair for any perspective.

36
37 Councilmember Elrich,

38 Let me look at this packet on the table. Last week after having taken off the table the
39 week before, and [inaudible] to support the additional capital funding, I think the County
40 can make its own case. But I think it's fair to characterize that the view was it was
41 critical to get this passed [inaudible] this signal to the state that we were serious about
42 going forward with this, and not wanting an action on this to jeopardize the ability to get
43 state funding. Is that fair enough?



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1 Tim Firestine,

2 I think the delay could have been read that way, that there wasn't support for it, right.

3
4 Councilmember Elrich,

5 That's certainly the way you told us that the delay was interpreted.

6
7 President Knapp,

8 I would submit that after having talked to a couple of folks down in Annapolis, that there
9 are at least those -- there are some who had perceived it that way.

10
11 Councilmember Elrich,

12 So, the committee made a recommendation to go forward. I have my own comments on
13 this, which are basically; I was the vote against it at that point. My concerns continue to
14 be of the issue of the rent levels; how we're going to deal with the excess construction
15 costs; and how well we're going to be able to actually control them and keep them
16 within. Because I think the question has been raised that all of the rent or large portions
17 of the rents can be eaten up if construction costs exceed \$8 million. That's correct and
18 it's possible that it could happen?

19
20 Diane Schwartz-Jones,

21 It is possible, but there is going to be value engineering that will go on as part of the
22 design process. And in addition to that, before a commitment is made to the expenditure
23 funds libation, the County will identify whatever libation doesn't want by you engineered
24 out, that they are willing to assume the cost up, and we will enter into a guaranteed
25 maximum price agreement so that the price will not exceed whatever the agreed upon
26 price is.

27
28 Councilmember Elrich,

29 Okay. And I had asked the question about -- and other people had asked the question
30 about the feasibility; the study that was being done.

31
32 Tim Firestine,

33 And again, I want to clarify. We had done about nine months, we did a market study.
34 And I think that's what the word feasibility was referring to. Quite frankly, when Mrs.
35 Praisner was here, she had some thoughts about a feasibility study meant to her, but
36 that never formally got clarified. So what we have is we have the market study; that's
37 already been complete. So if the term feasibility simply meant that, that is complete and
38 available. To the extent it was beyond that, I think was sort of definitional by Mrs.
39 Praisner.

40
41 Councilmember Elrich,

42 So references to a study that would be done that had been done; it's not what we're
43 waiting for?



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1 Tim Firestine,

2 There's a market study that showed that there was a market for this type of a venue in
3 that location.

4
5 Councilmember Elrich,

6 Okay, I want to clear that up, because that's an issue that's been raised. So I guess I
7 have questions about that. I have questions about the rent level; which again, as you
8 well know, I think is below what the rent levels for the building should be. I have
9 concerns about not getting anything out of the naming rights for this building. I think
10 those are things that should have been addressed. I'm going to abstain today, because
11 I don't want to -- I'm not in the position to say yes. But at the same time, I don't want to
12 say no to state money, and I don't want to send the signal that for however this project
13 works out that we have \$2 million less money than we otherwise might have. So I will
14 abstain and we'll see how things proceed to whether we can get to yes.

15
16 President Knapp,

17 Okay. We have before us the committee recommendation. Councilmember Berliner.

18
19 Councilmember Berliner,

20 Thank you, Council President, I would ask your indulgence for a few minutes of time
21 with respect to this matter. I have shared with the Executive Branch in somewhat more
22 gentle tones than I did the last time Mr. Firestine was before us that I do find this project
23 to be problematic. I promise to try and maintain that tone throughout this conversation,
24 because I know that the Executive Branch is trying to do what it perceives to be the right
25 thing. I just need to share on the record and through a series of questions that I think
26 this is not just a faulty process, but that it was a faulty project. I don't buy the
27 economics. I don't buy the economic development. I think we're being leveraged by the
28 developer. I think this thing is off from the get-go. And so I will be voting against it. I do
29 appreciate, and don't want to send the signal to the good people of Silver Spring, that I
30 am content with the block the way it stands today. That block needs to be revitalized. I
31 just don't like being leveraged that this is the only way that this block gets to be
32 revitalized. And quite frankly, I don't know if it will be revitalized if this deal goes through.
33 The bare minimum that is required under this deal is 77 -- 70 performances. There is a
34 quote objective of 150, but the requirement, as I appreciate it, would I be right with
35 respect, Mr. Firestine, that they will satisfy their obligation -- this could be wrong, but at
36 circle 4, if they have a minimum of 70 events a year.

37
38 Tim Firestine,

39 That's the minimum contractually agreed upon amount. I think the expectation -- and
40 they're here, you can ask them -- is way beyond the 70.

41
42 Councilmember Berliner,

43 And I appreciate that that may be the expectation, but it isn't the minimum.



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1 Diane Schwartz-Jones,
2 Well, I'm sorry, Mr. Berliner. I wanted to just -- .

3
4 Councilmember Berliner,
5 No, no, if I'm wrong, I do want to try to the best of my knowledge -- best of my ability to
6 have a conversation. I don't mean to be lecturing, and I'm not trying to score points. I
7 am trying to make sure that my understanding is correct with respect to this.

8
9 Diane Schwartz-Jones,
10 And I'd like to respond to the standard. This facility, pursuant to the lease, is required to
11 be operated to a standard consistent with what a first-class facility would be operated at,
12 and consistent with the standards that operate its other Fillmore venues to. So there is a
13 minimum commitment. There's an initial start up that will occur that they need to
14 approach and gear up to it. The objective is to get to 150 and in excess of 150
15 performances per year. And they have an ongoing obligation to act in good faith under
16 their agreement, and to operate at the standard consistent with other Fillmore venues.
17 So I think that that does address it. I think that it is incumbent upon us to recognize that
18 they can't start right at the top -- operating at the top; that this is something that they
19 build over time.

20
21 Councilmember Berliner,
22 I appreciate that answer. I would say to you as someone who is a lawyer and does
23 contracts and did contracts, that if I wanted more than 70, I would build that into the
24 minimum, because I believe that this language is too soft to achieve that purpose. And I
25 also believe that the venue is so large that I think it is going to be very difficult to
26 economically operate that venue at, quite frankly, more than just a weekend kind of
27 deal. So I think there is a reason why that 70 was picked there, because I believe that
28 70 actually does reflect the reality that for a venue that size, for the bands that are going
29 to have to be booked in there, the notion that you're going to have economic activity
30 throughout the week, I think, is illusory. And I think that the people of Silver Spring who
31 are looking for economic activity along that street aren't going to get what they think
32 they're going to get with respect to this. Because I don't think that's the nature of this
33 venue as currently proposed. Now the Birchmere might have been able to pull that off
34 with a smaller venue five days a week. But that deal couldn't happen, and it couldn't
35 happen for lots of reasons. But we've morphed that deal into a 2,000-seat concert hall
36 that isn't going to work five days a week, in my judgment. And in the judgment of --
37 excuse me?

38
39 Unidentified,
40 No seats.

41
42 Councilmember Berliner,
43 No seats, right. And the judgment of other professionals in this field.



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1 Tim Firestine,

2 Well with all due respect, there are professionals in the field who will conclude, as Diane
3 just indicated, that the standard number of days that this venue will operate based on
4 the history with our other venues will be beyond the 70. The 70 was simply a contractual
5 minimal amount that was agreed to in the lease. We all, you know, there's no incentive
6 for them not to put performances in this -- in this venue.

7
8 Councilmember Berliner,

9 Mr. Firestine, there is -- there is incentive if they lose money.

10
11 Tim Firestine,

12 I mean that's where their profit comes from.

13
14 Councilmember Berliner,

15 And the reason why this deal is structured the way it is, and I would point you to the --
16 your answer I believe on page 3 with respect to the question whether there should
17 revenue sharing was that the "deal structure with Live Nation reflects the County's
18 intention to shift the risk associated with operating any such facility to the private
19 sector." With a rent of \$7,500 a month, tell what you perceive to be their risk? This is
20 about as low risk as it possibly could get. This is so low risk that they'd be fools not to
21 jump on this deal. Of course they like this deal, and they're here fighting for this deal.
22 But this deal is structured in a way that there is no risk.

23
24 Diane Schwartz-Jones,

25 We can argue about what constitutes base rent, what doesn't constitute base rent. This
26 is a -- just a basic net number to the County. There are costs that the County has on
27 other facilities that would typically go into constituting the rent. And for example, I've
28 seen some of the information that's bandied about, about that \$30 per square foot. And
29 \$30 per square foot as it might relate to an office rental, which has services loaded into
30 it, and so you can't compare these as -- they're apples to oranges. If you were going to
31 compare that \$30 per FAR office rental to the \$3 per square foot here, you would add
32 into it the cost of maintenance. The cost maintenance and the cost of services to a
33 building would be approximately \$6 per FAR foot. There are other costs as well. There
34 are structural costs that we actually budget for with every one of our facilities. Those
35 would be added into it. And those are the things that when you start adding them onto
36 go in to comprising the actual per square foot rent. We, with all due respect, Mr.
37 Berliner, we disagree on the interpretation.

38
39 Councilmember Berliner,

40 I hear that, and I will continue to try to be respectful. I am looking at your calculation of
41 other county revenues and costs, which is what -- on circle 2, which is where you get
42 your economic benefit associated with this deal, which I would note includes tenant-paid
43 utilities for \$211,000 a year; tenant fit-out \$188,000. Is that intended to be an annual
44 cost?



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1
2 Tim Firestine,
3 Yes, it is.

4
5 Councilmember Berliner,
6 That's annual cost. They're going to be \$200,000 a year for 30 years, is their fit-out?

7
8 Diane Schwartz-Jones,
9 The tenant improvements -- I would word this -- this is not my area to work -- to run this
10 kind of a program. I would word it a little bit differently. If a landlord were building out
11 tenant improvements for a tenant, and very frequently that is what happens, there would
12 be a certain per square foot dollar cost that the landlord would factor in. And so, for
13 example, a \$6.08 -- the way I was looking at it would be a tenant improvement per
14 square foot of \$6.08, you add that to the \$3, that gets you up to a \$9, because you
15 deduct it if we're not paying it. And the tenant in this case is going to be paying it. You
16 look at the maintenance cost. I mentioned that, the \$6, the capital maintenance
17 investments that were in order to make \$4. Utilities on a full-service office building, if
18 they were passed -- not passed through to utilities, that would be an additional cost of
19 \$6.08. And then there are other benefits that you could quantify to add into it. So I take
20 a slightly different approach in looking at how you're factoring and calculating the actual
21 rental to the county. Because there are things that would be built into it when you're
22 looking at a \$30 per square foot office rental for this area that are not factored into it,
23 because we're not incurring those costs.

24
25 Councilmember Berliner,
26 I guess part of the difficulty I have you're assuming some sort of hypothetical
27 negotiation in which we give away all these items, and then you build them into your
28 11.2% rate of return, assuming that this is a net benefit to us. So I have to say -- .

29
30 Tim Firestine,
31 I don't understand your point, Mr. Berliner.

32
33 Councilmember Berliner,
34 Well I could be wrong.

35
36 Tim Firestine,
37 Give them away. These are actual costs that ordinarily in a venue of this type the county
38 would be paying. Whether it's AFI, whether it's Strathmore Hall, whether it's any other
39 place that is set up this way, the County would be paying the utilities. We'd be paying
40 the maintenance on the building. So from the perspective of this being a County-owned
41 facility, there is value to that.

42
43 Councilmember Berliner,
44 I hear you, sir.



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1
2 Tim Firestine,
3 That's what an economic analysis does. It tries to add value to those things you
4 ordinarily would be paying. I mean there's value to the county of having a building
5 where something is paid by the other party.

6
7 Councilmember Berliner,
8 Somebody else.

9
10 Tim Firestine,
11 Relative to that building.

12
13 Councilmember Berliner,
14 I get that there is value in having someone else pay charges that we would otherwise
15 pay. I get that concept. With respect to the cost overrun issue, you invoke the term
16 value engineering as though that is a sufficient prophylactic that we will not have cost
17 overruns here. Is that your experience that we go to value engineering because, gee,
18 maybe we make sure we do that on all our buildings? If we go to value engineering,
19 there won't be cost overruns?

20
21 Diane Schwartz-Jones,
22 We do do that on very many, if not all of our buildings, but it is a process that's part of
23 the design process in designing it responsibly in a way that it can be built at a
24 reasonable cost. And until we do that you start out putting in all of the things that you
25 might want to see in there and then identifying the things that you pull out from the
26 pricing as you're going through it. And this is going to be a process that we need to go
27 through. Will we end up -- I can't tell you exactly where the number is going to end up.
28 It's a process we haven't gone through yet. We need to engage in it.

29
30 Councilmember Berliner,
31 I guess I just find it difficult to believe that in a project of this nature that we are not
32 going to have cost overruns. And that if we have cost overruns, as I appreciate it, the
33 cost overruns get credited against the rent. Am I correct with respect to that?

34
35 Diane Schwartz-Jones,
36 You are. Let me go back and identify again the process by how this will occur. What will
37 happen is we will have a design. The design will be reviewed by Live Nation, by the
38 County, and also by the development group. We will price that design. The design will
39 come in, and if it comes in over the allocated amount of funds, we will be sitting down
40 with Live Nation, we will be identifying areas that can be cut from the plans to reduce
41 the cost. We can get it down as far as we can get it. If there are things that Live Nation
42 wants to pay for because it wants it, that's up to them to make that decision. But then
43 we get it, we've value-engineered it down to as far as we can get. If the cost still comes
44 in excess of the available funds, then Live Nation will make a decision is it going to



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1 proceed and assume these costs. They have the right to cap their exposure; which I
2 think is a reasonable thing to do. And then once we have identified what excess costs
3 are going to have, we will be entering into a guaranteed maximum price. That
4 guaranteed maximum price will be based upon the available funds and what Live Nation
5 has also agreed to cover. That's the guaranteed maximum price. And the facility will be
6 built for that cost. Now you are correct; the additional costs, not the tenant
7 improvements. The tenant improvements are Live Nation's obligation. The additional
8 costs are designed to go against the rent. They will be credited over time against the
9 rent. So Live Nation will carry that. But keeping in mind that this is a way of minimizing
10 the risk to the County of having to come up with any additional costs. It is a deal -- a
11 way of structuring the deal to protect the County from having to dig in further to cover
12 such costs.

13
14 Councilmember Berliner,

15 Okay. Let me ask staff a question, and perhaps the committee. Does this Council ever
16 have an opportunity -- I know that the staff before us today is not the staff that drafted
17 this particular memorandum. I actually -- if Justina was here, I would have said to her I
18 thought the greatest line in this memorandum was on page 4, where staff says, "The
19 Live Nation deal is what it is." Do we ever get the Live Nation before this body such that
20 given the concerns we have -- at least that some of us have with respect to this. Do we
21 have any opportunity to modify the terms of that deal?

22
23 Tim Firestine,

24 No.

25
26 Unidentified,

27 Not to modify.

28
29 Linda McMillan,

30 You have, I mean, appropriation is your time. So you can do a couple of things which is
31 either hold an appropriation until you get to see something further, because then you
32 can make a further review and decision. You can, as we have just discussed in a
33 previous project, put language in a PDF that requires as expending the appropriation
34 that they bring you information, but it cannot be contingent then on a future decision of
35 yours. So you can make requirements related to an appropriation that require review at
36 certain point. If you wanted, for example, a report after the value engineering, you could
37 require that. But it would come to you as a required informational item as opposed to an
38 item that you then get to make a further decision on.

39
40 Unidentified,

41 [Inaudible].

42
43 President Knapp,



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1 [Inaudible] which I would submit. If you look at the PDF it indicates funds for the music
2 venue in Silver Spring will not be expended until an agreement is reached between
3 development partners and the County, which includes Council review and approval of
4 the general business terms. So we've captured that element].

5
6 Linda McMillan,
7 The business terms. And it just depends how -- what points you wish to make sure you
8 have information on.

9
10 Councilmember Berliner,
11 And my understanding and the committee's initial action with respect to this was, of
12 course, that we don't have the arrangement as it relates to the agreement between the
13 County and the developer as to what they are seeking with respect to in return for this
14 generous offer of this piece of property. What is it that they are seeking from the County
15 with respect to that? And we don't have that deal yet; is that correct?

16
17 Tim Firestine,
18 That's correct.

19
20 Councilmember Berliner,
21 But that deal will come before this Council for an up or down vote as well; is that my
22 understanding?

23
24 Tim Firestine,
25 The deal itself won't, but any actions that are required such as a Zoning Text
26 Amendment or something of that nature, which is a legislative act, those you would
27 have to approve.

28
29 Councilmember Berliner,
30 Okay.

31
32 Tim Firestine,
33 But the agreement itself, you don't approve.

34
35 Councilmember Berliner,
36 And there was one additional action that was my understanding that we would have to
37 approve with respect to this project; is that correct? Are there -- was the Zoning Text
38 Amendment as well as one other action?

39
40 Unidentified,
41 Subdivision [inaudible] - [multiple speakers].

42
43 President Knapp,
44 Subdivision regulation.



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Councilmember Berliner,
And the SRA would -- .

President Knapp,
I'm sorry, ZTA and then review of the business terms subject to what's laid out in the PDF. So we've got at least three more opportunities to have this conversation, which I'm sure everyone's excited about.

Councilmember Berliner,
Firestine just can't wait.

Councilmember Trachtenberg,
Just don't make them all in the same day.

Councilmember Berliner,
I sense the will of this body is to go forward with respect to this. I will be voting no. I do think it's a bad deal, a bad process. I think we did not do this well. And I fear that it is not going to be what people hope it will be. And it will be a big disappointment. But I will give back the balance of my time, which I so abused in the first place.

President Knapp,
Council Vice President Andrews.

Vice President Andrews,
Thank you. Well, let me first note that I -- and we know up here, but I don't know if folks out there know that our colleague, Valerie Ervin, is ill -- she took ill. And she supports the project, but she's the district Councilmember for the area as well. But she's out this afternoon because of an illness. Let me ask a question. What's the estimated time that you expect the County to recover its investment on this project?

Tim Firestine,
I'm not quite sure I fully understand your -- we've showed you an analysis that calculates the return on investment. So basically what it's saying is our return investment is about 11% on this project.

Vice President Andrews,
Okay. So if it's an even -- .

Unidentified,
That's about six years.

Vice President Andrews,



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1 Okay, because of the compounding, that would be about 6 years; that's right. Because
2 10% would be 7 years.

3
4 Unidentified,
5 Right.

6
7 Vice President Andrews,
8 Okay, all right. Okay. So you expect this to be a moneymaker in 6 years or so. All right. I
9 think that's an important point.

10
11 Unidentified,
12 And in fact, when you sell it, we get all of our money back.

13
14 Unidentified,
15 We're not selling it.

16
17 Unidentified,
18 We're not selling it. But we keep asset.

19
20 Vice President Andrews,
21 Yeah, but the asset -- the building is owned by the County, and that is an attractive
22 feature.

23
24 Diane Schwartz-Jones,
25 That's correct.

26
27 Vice President Andrews,
28 So you're expecting it to be a moneymaker in about 6 years. And that I think is
29 important because there are some projects that the county is required to subsidize in
30 perpetuity. This is not one of those, and it's expected to bring in tax dollars after a
31 certain period of time. And 6 years is not a long period of time for a significant project. I
32 think on balance this is in the public interest. I came at this with an open mind. I think it
33 will help continue the successful redevelopment of Silver Spring. I think that it is an
34 exciting opportunity. I think a lot of people will like it; some may not. But not everybody
35 likes everything. But I think it will help continue the redevelopment of downtown Silver
36 Spring. And so I will support it as I have indicated before, because I haven't heard
37 anything in the last few weeks that has persuaded me that it's not a good deal in the
38 scheme of things. So I think we should go forward. And I think we should send a clear
39 message to the state that we support this project, and that we want the state to follow
40 through as well.

41
42 President Knapp,
43 Councilmember Elrich.



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1 Councilmember Elrich,

2 I want to thank Roger for going through the list of concerns and questions. And
3 particularly for listening that we will have other opportunities to visit this, because
4 additional approvals are needed through the Council. And so this doesn't actually close
5 the door or open the door, it just continues to make sure that we have the door open for
6 state funding. Two other things I guess which are tangentially related to this, but I think
7 will kind of become clear is one, we need to think about more of a discussion of how we
8 do economic development and how the Council fits into the picture of it, and have, I
9 think, broader discussions about how projects emerge and go forward. Because this is
10 not a good example of a helpful way of doing things, and I don't think it would be good
11 to repeat this on any number of projects that we might find ourselves involved in, in the
12 future. My second concern is the other side of Colesville Road. Frankly, if one project
13 was such a savior, it's kind of odd to think that AFI had no affect on the opposite side of
14 Colesville Road. And I really agree with the assessment about the impact of this on that
15 side of Colesville Road. But I would also say I don't think that's a reason to support or
16 not support this project, because it would true whether it was 9:30 or even the
17 Birchmere that a club that's open a couple of nights a week at 8:00 or 9:00 at night isn't
18 going to attract anything to the storefronts on the other side of the street because
19 there's no one there during the time that the storefronts want to be open. And Silver
20 Spring restaurants already struggle with a lunchtime crowd, so it's highly unlikely that a
21 bunch of restaurants are going to open for one or two nights a week business for the
22 patrons who might come to Live Nation. What I think that says is that the County really
23 needs to a serious look at what to do with the rest of the block. We've expended an
24 enormous amount of energy on one building and one project. And we put an enormous
25 amount of energy years ago into the core of Silver Spring. We haven't put anywhere
26 near equal the energy into the smaller projects and the smaller developments, and for
27 this side of Colesville Road to linger the way it has I think is really a shame. And I would
28 like to see, you know, more emphasis placed on a real economic development strategy
29 that doesn't revolve around the hope that somehow Live Nation is going to spin off the
30 activity that you're hoping for this block, that we look more realistically at how we might
31 be able to create some activity over there that's going to help put that block in a better
32 position. I really don't think Live Nation or any of these venues is a real economic
33 development engine. I think it's kind of unrealistic to characterize it. And I think that they
34 have other values, and the other values that they can contribute are perfectly fine, but I
35 don't whether, in my mind, overselling this for what it does just creates -- at least adds
36 to my frustration with the project. I'd rather evaluate it and talk about it for its limited
37 benefits whatever they are, than try to pretend that it's more than it is.

38
39 President Knapp,
40 Councilmember Leventhal.

41
42 Councilmember Leventhal,

43 A lot of pessimism here. A lot of pessimism about Silver Spring. A lot of pessimism
44 about what may occur. Again, I think it's interesting that the owner of the property and



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1 the new investor from outside have confidence in the project and they're putting a great
2 deal more at risk than we are. We're putting a couple of million dollars -- 4 million total
3 from the County, 4 million total from the state, into this deal; both the owners, the Lee
4 development group and the operators Live Nation, are putting a great deal more in, and
5 they are the ones who are putting their own investment stake and their own name at
6 risk, and they're more optimistic than what I've heard here from my colleagues. I hope
7 my colleagues will begin to connect the dots about what is happening right now in the
8 economy. We heard this morning at breakfast with the County Executive that there is
9 tremendous uncertainty and that that is what is causing the dip in property values, and
10 the dip in property values is causing a dip in property tax revenue. The uncertainty
11 about housing prices is making people unsure about turning over their homes, and so
12 that's causing the dip in transfer tax and recordation tax revenue. And the uncertainty
13 about employment is having an effect on income tax revenue, and so for the next few
14 weeks we're going to through this agonizing exercise of cutting the budget. So when
15 people are uncertain and scared and worried, and the investment climate is bad,
16 revenues go down. If you campaigned against growth, the only thing worse than growth
17 is not having growth. So what we're seeing now are the effects of not having growth.
18 The economy is contracting, revenues are down, and we're going to facing that over the
19 next few weeks. In that environment if this Council -- I've come to the conclusion --
20 votes down the Live Nation deal, it will have a ripple effect for all of Silver Spring. It will
21 be very negative on the investment climate in Silver Spring. Having said that, I'm not the
22 biggest fan of this deal, I'm not the biggest fan of this lease. There are many aspects of
23 this process that I wish could have been better. My heart goes out to a local operator
24 who is here in the audience who, you know, his -- has made a strong case and many
25 people -- many of my constituents have been persuaded that he should have had a
26 crack at this, and maybe he should have. Maybe there should have been a different
27 process. I've heard my colleagues say that we ought to take a hard look at how we do
28 economic development in this County. Yes, I agree. I've heard my colleagues say that
29 the Council ought to be more involved; well I hope not. Not with this kind of pessimism. I
30 hope not. I hope not. I hope we will have a better approach to economic development. I
31 hope we will have more and better opportunities for a health economy. And then we
32 have an Executive Branch and we have a Legislative Branch. And the Executive Branch
33 I hope will continue to bring us deals and then we'll discuss them, just like we've done
34 with this one. I've come to the conclusion this is a pretty good deal. Not a great process
35 that led to the deal. Is it possible that we could extract more from Live Nation? I don't
36 know. I mean this was the deal that was negotiated. Obviously Live Nation wants to turn
37 a profit. And the problem with this arrangement is that you get some much conflicting
38 advice. And I've been listening very, very carefully. I've been taking a lot of soundings in
39 the community about this. So you have the residents nearby who are afraid that there
40 will be too many shows and too many people and too much noise and too many people
41 on the streets. And then I hear from my esteemed colleagues who say there won't be
42 enough shows. It won't do enough for Silver Spring. It won't do enough for the
43 restaurants. It's only two nights a week. Well but I'm hearing from the people who live
44 up the street, boy, you know, all this traffic, all these people, all this drinking, too much,



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1 too much activity. Well so, you know, so we're just kind of afraid of change. We're afraid
2 of something new. We're not sure whether it will work. I'm debating whether or not to tell
3 this story and I'm going to [inaudible], I'm going to change. He said I've talked to one of
4 my constituents who is in the entertainment business. And he was very down about this,
5 very pessimistic. And he says -- I'm not going to use the exact words he was going to
6 say. He said, it's going to stink. It's just going to stink. It's going to stink. They're not
7 going to have any music that I like, and it's just -- it's not going to be any good and it's
8 just going to stink. And I said to him, why are you so pessimistic? How do you know it's
9 going to stink? How do you know it won't be really cool And he said, yeah, gee. I never
10 thought about it that way. This is a guy who's in the entertainment business and he
11 goes out a lot. So there's been sort of a -- and it has to do with the economic cycle.
12 People are feeling pinched. They're feeling anxious. They're feeling anxious about their
13 mortgages. They're feeling anxious about the future. They're feeling anxious about their
14 property values. Energy bills are going up. Gas prices are high. The mood is bad, and
15 that has an effect on consumer confidence, and that has an effect on the economic --
16 how we're doing, okay. In that climate I've come to the conclusion that if this Council
17 votes down this deal, it would have bad, bad ripple effects; that it would not be a
18 responsible thing to do. Tempting as it is, I mean, I could cast a political vote against
19 this; and I've let the Executive Branch dangle for a few months on this now. Because
20 I've had concerns, not only on this issue, but on some other issues. But I don't think it
21 would be responsible to walk away from this major investment right now. So with all the
22 concerns I've outlined, I will vote yes.

23
24 President Knapp,
25 Councilmember Floreen.

26
27 Councilmember Floreen,
28 Thank you. Well, I think we all have an obligation to exercise oversight and be careful.
29 Be assured that the things we've worried about have answers. But they do. And the fact
30 of the matter is I do think if we're going to start talking about -- I'm with George, I'm not
31 sure we should spend much time on economic development here. But the real issue is
32 vision. And the real issue is creativity. Our laws and procedures don't encourage that,
33 but we need to, because that it is the way of the future. That is what our residents
34 expect of us -- forward thinking. Let's try something new, and this is in that category. I
35 applaud the County Executive for getting into this, for pushing forward a project that
36 one party had walked away from. I think it's going to bring more excitement to Silver
37 Spring. And best of all, it's not all County money. There's plenty of private sector money
38 that is going to go into making this happen, and hopefully it will inspire more private
39 sector money. Government cannot pay for everything. And it's certainly true that
40 Montgomery County has put a lot of money into Silver Spring so far. We're not done.
41 But steps like this send a message -- a positive message to all the other property
42 owners and investors out there, and anyone who is watching us from afar. And I think it
43 is a great initiative. I think, you know, there is always a few bumps in the way, and we
44 will ask our questions. But at the end of the day this is the way we need to start thinking



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1 and not continue to be constrained by old assumptions, old patterns of making
2 decisions that delay things, that study things to death, and in gridlock or inaction, which
3 is unfortunately, has been in the case in the past. So I'm glad that this is happening. I
4 wish you well. And let's get moving.

5
6 President Knapp,
7 Councilmember Trachtenberg.

8
9 Councilmember Trachtenberg,
10 Thank you, President Knapp. I have been sitting here listening to all the comments of
11 my colleagues, and you know, it would seem to me that probably the fundamental
12 lesson that we have learned in all this, at least they feel I have learned, is that if there
13 had been better communication between all parties, I don't think the conversation would
14 have started in such a negative way. And I am not going get stuck on that point, but I
15 feel that I need to make it publicly. That is a really important lesson for all of us. But I
16 believe that the project is fundamentally solid, and that it would very much be a positive
17 investment for the Silver Spring, for the community period. And it's for that reason that I
18 will support it. The only question I have, and I hope that we'll get some definition on this,
19 is when are we going see the SRA and ZTA so we can move forward?

20
21 Tim Firestine,
22 You know, as we said earlier, this is a different deal. You know, it's complicated. We are
23 working on that. We had a meeting again last Friday. So we're trying to get that to you
24 as quickly as possible.

25
26 Councilmember Trachtenberg,
27 So we will have it in a few weeks?

28
29 Tim Firestine,
30 I would think. Absolutely.

31
32 Councilmember Trachtenberg,
33 Okay. That is what I want to hear.

34
35 President Knapp,
36 Okay, well, I am not sure there is much more to say. I thank you for your efforts. I think
37 to Mr. Leventhal's point, I mean, we're a pretty exciting place to live. There's a lot of
38 neat stuff here, and we're trying to find more exciting and interesting things here. And
39 think that's important for everybody to remember. There are different elements of this
40 which still engender further conversations in the coming months, and that is what the
41 process is, and that's okay. But I think this gives us an opportunity to set up -- it helps
42 us set up the opportunity for success. We've got the resources in place as we move
43 through the other pieces so we can move forward as the other elements of the deal do
44 or don't come together. But I think in order to be able to get to the next point, we've got



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1 make sure we've set up ourselves in a way that we can be successful ultimately. And I
2 think that's what this does and it sends the right message to the state. So with that, I
3 think, we have a committee recommendation before us. I see no one making any
4 additional motions. Therefore, the committee recommendation is adopted, after much
5 discussion. And I thank you very much. And we move on to Agenda Item 18 -- FY09-14
6 Capital Improvement Program, Department of Health and Human Services. Chairman
7 Leventhal?

8
9 Councilmember Leventhal,

10 Mr. Chairman, that's all right if you want me to do it, I'm happy to do it. I don't mind.
11 Thank you to the members of the HHS and Education committees who agreed with all
12 of the recommendations of the Executive Branch on those items in -- that are in our joint
13 jurisdiction, those being childcare and schools, school-based health, linkages to
14 learning centers, and the high school wellness center. In childcare and schools, there is
15 a proposal for \$2.82 million over six years, including construction planning dollars for
16 childcare centers at three elementary schools -- Takoma Park, Weller Road and Belpre
17 elementary schools. Takoma Park childcare facility will open soonest in connection with
18 the renovations and modernization underway at Takoma Park in August 2010; Weller
19 Road childcare center August 2013, Belpre childcare center August 2014, and in FY09
20 the request is \$363,000. Vivian, if I've missed anything that's important.

21
22 President Knapp,

23 We've got one question. Councilmember Floreen, on this topic?

24
25 Councilmember Floreen,

26 Yeah.

27
28 President Knapp,

29 Okay.

30
31 Councilmember Floreen,

32 I just wanted to say I am glad that the committee is fully recommending full approval of
33 these projects. I cannot emphasize enough how important I think childcare facilities in
34 our schools are. I honestly don't know how -- my kids are all grown up, but I don't know
35 how families manage. And I think we need to make this a continued priority in the
36 county in looking at ways we can support families. This is mostly for school-aged
37 children, right? So, how families manage with infants and preschool children, I think is
38 something we need to start thinking about and talking about as well aggressively.
39 Because I think we have an obligation to help families in their work life, and this is a key
40 element to that. So I just want to make that comment. I appreciate the good work.

41
42 Councilmember Leventhal,



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1 Okay, thank you. And your memo to the committees was noted when the committees
2 met, and we do of course go along with your recommendation and the County
3 Executive's recommendation.

4
5 Councilmember Floreen,
6 Thank you.

7
8 President Knapp,
9 Ms. Garvey.

10
11 Kate Garvey,
12 I just wanted to clarify that we do have non-school -- younger children in during the day,
13 but do we have the before and after school for the school-aged children utilizing the site.

14
15 President Knapp,
16 And there was discussion at the committee about recognizing and agreeing completely
17 with the need to do this, and also direction back to the department to see if there are
18 some other more innovative ways to look at public-private partnerships using leveraging
19 the county's perhaps not GO bond capacity, but certificates of participation, other ways
20 that we could potentially enable community providers in addition to bricks and mortar at
21 our existing school facilities. So we are looking at that, too.

22
23 Kate Garvey,
24 And we are researching that to see -- particularly the GO bond element with the private
25 facility. We don't have an answer on that yet.

26
27 Councilmember Floreen,
28 And I would like to work with you all on that, because I really think it's critical. Thanks.

29
30 Councilmember Leventhal,
31 Okay. Next item is the school based health and linkages to learning centers. The
32 County Executive recommended \$6.772 million over six years. We will build school-
33 based health centers at four elementary schools; Summit Hall, New Hampshire Estates,
34 Rolling Terrace and Highland over the next few years; Summit Hall first in summer of
35 2008; New Hampshire Estates August 2009; Rolling Terrace in fiscal 2011; and
36 Highland fiscal 2012. These are an effective way of providing health services right there
37 on site, and we have three of these school-based health centers already operating.
38 They are very popular. We would like to expand beyond the capacity that we even have
39 here. We're moving more slowly I think than the Council would like, but obviously dollars
40 are limited. So the costs are outlined here in the memo. Vivian, is there anything else
41 that I should address here with the school-based health centers? Committees agreed
42 with the County Executive. With respect to the high school wellness center, we agreed
43 again with the County Executive's recommendation, \$1.375 million over six years
44 planning for high school wellness centers at Northwood, Gaithersburg, Watkins Mill and



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1 Wheaton high schools. Preliminary cost estimate for the Northwood center is \$3.1
2 million. This will be -- there is already a wellness center operating in the school. This will
3 be a new facility that will be on the school grounds. And the results that we have gotten
4 from the high school wellness center have been good at Northwood. We are getting a
5 good response and generally providing healthcare in schools is something we would
6 like to expand. The committee had a useful discussion about various aspects for
7 teenagers that we may want to be looking at, and we will take up the discussion of
8 family planning services and reproductive health services later. But we are generally
9 pleased with how the program is working and we want to continue its progress.

10
11 President Knapp,
12 There are no questions.

13
14 Councilmember Leventhal,
15 Okay.

16
17 President Knapp,
18 All right. Well done.

19
20 Councilmember Leventhal,
21 And those are the recommendations of the HHS and Education committees.

22
23 President Knapp,
24 Okay. We turn to the Department of Recreation CIP. Thank you all very much. Turn to
25 the Chair of the PHED Committee, Mr. Elrich. Who is coming, I think. All right, so --
26 Marc is coming? Department of Rec.

27
28 Councilmember Elrich,
29 Okay Recreation Department.

30
31 President Knapp,
32 Turn on your microphone. There you go. Thank you.

33
34 Councilmember Elrich,
35 Want to take us through?

36
37 Vivian Yao,
38 For the Fiscal Year '09-14 CIP, the Executive recommends a total of \$50.5 million to the
39 Department of Recreation, which is a decrease of \$3.7 million, or \$6.8 from the
40 amended Fiscal Year 09 7/12 program. A summary of the PHED Committee's
41 recommendations is on page one and two of your packet. It recommends a total of
42 95.15 million for twelve projects. However, one of the projects programmed for 44.8
43 million was recommended for delay if needed for reconciliation purposes and fiscal
44 restraint. The Operating Budget impact of opening new community recreation centers



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1 ranges from 650,000 to 780,000. These centers are projected to bring in roughly
2 \$50,000 in revenue. The Operating Impact for the renovation of neighborhood
3 recreation centers is approximately 118,000. The first project is Gaithersburg Aquatic
4 Center. Their revised PDF is in your packet at circle 6. This ongoing project provides for
5 the construction of a new indoor aquatic center in Gaithersburg in partnership with the
6 city of Gaithersburg. The recommended total cost for the project is 6 million in current
7 revenue. Because the city is in the process of requesting a delay to the construction of
8 the project, the committee recommended disappropriating 2.5 million that has not yet
9 been disbursed to the city, and zeroing out the 2.5 million in the expenditure schedule
10 for Fiscal Year '09. The committee recommends keeping the project in the CIP to
11 continue to reflect the total commitment of \$6 million by the County, and reflect \$5
12 million in the beyond 6 years column until the timing of construction is better known.

13
14 Councilmember Elrich,
15 I think you get to keep talking unless somebody says [inaudible].

16
17 President Knapp,
18 Keep going -- Councilmember Leventhal has a question.

19
20 Councilmember Leventhal,
21 Actually, what I wanted to do, it may be a little bit out of order, but I just wanted to let my
22 colleagues know, Mr. Elrich is already very much aware, that it is very likely that there
23 will be another Recreation Department PDF being proposed by Councilmembers for the
24 swimming pool at Piney Branch Elementary School. And so the committee obviously
25 hadn't taken it up yet. The city of Takoma Park is still working -- had still been working
26 through what it recommended, and it's going to come later, unfortunately, before we
27 finish this budget process. But I just wanted to let colleagues know that there is active
28 discussion with the Rec Department, with the schools, with the city of Takoma Park, and
29 that it will result in a PDF likely, but it isn't ready yet.

30
31 Vivian Yao,
32 Okay. The next project is the MAC Diving Tower replacement. The PDF is at circle 8.
33 This ongoing project will replace the diving tower Montgomery Aquatic Center and
34 renovate the water slide for a recommended total cost of \$1.841 million. The six year
35 total is 973,000. The Executive submitted a revised PDF for the project, the committee
36 recommends approval of the Executive's revised PDF as submitted. The third project is
37 Mid County Commute Recreation Center. PDF is at circle 9. This ongoing project
38 provides for the design and construction of a 24,700 square foot community recreation
39 center. The recommended total cost of \$12.5 million; the six-year total is \$2.04 million.
40 The committee recommends approving the project as submitted by the Executive.
41 Okay. Project number four is the White Oak Community Recreation Center. The revised
42 PDF is at circle 19. This ongoing project provides for the design and construction for a
43 33,000 square foot community recreation center for a recommended total cost of
44 \$24.330 million. The six-year total is \$23.339 million. The requested fiscal year



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1 appropriation is \$5.075 and then \$482,000 for fiscal year 10. The ballpark estimate for
2 this project is in the range of \$24 million to \$28 million. The committee recommends
3 approving the project as submitted by the Executive and adding text to the PDF
4 indicating the latest cost range estimate of 24 to 28 million. The fifth project is the North
5 Potomac Community Recreation Center. This revised PDF is at circle 12. This ongoing
6 project provides for the design and construction of a 33,000 square foot community
7 recreation center. The Executive recommended total cost for the project is \$22.085
8 million. The committee recommended programming the total cost of the project
9 consistent with the most current cost estimate of \$37 to \$44 million. This would put the
10 six-year total of \$37.102 million. The project is currently in the land acquisition phase,
11 and Councilmember Floreen expressed concern about whether the project would be
12 able to stay on schedule; thus the committee recommended delaying the
13 implementation of this project if necessary for CIP reconciliation and fiscal constraint.

14
15 President Knapp,
16 Vice President Andrews.

17
18 Vice President Andrews,
19 Thank you very much. I just wanted to comment that it is important to that we do our
20 best to keep this community center moving along. It has been in the works for a long
21 time. It's been in the recreation strategic plan for a long time. There is no other
22 community center anywhere nearby, and the County is in the final stages of land
23 acquisition, negotiating with the final landowner. And so it has been moving along as
24 fast as the County has been able to do so, and we need to continue that effort.

25
26 President Knapp,
27 I just had one question. Would it have programmed, or approved, or recommended by
28 the Executive was just for schematic design up to that point? There had been what, 11,
29 12, nearly \$14 million that had been included -- 14.3, I guess. What was that to get us
30 through to?

31
32 Vivian Yao,
33 This was an existing project, and in the prior PDFs the Executive included cost for the
34 whole project design, including construction too. So in fact the PDF that the Executive
35 recommended is at circle 13, I believe, of your packet.

36
37 President Knapp,
38 How about from the funding request? We've funded -- they requested 14.3, which had 6
39 million and 5 million in FY11 and 12, and then zero and zero. So I'm just curious; did
40 that only fund through the ultimate design concept, or was there just hope that we're
41 going to get that 13 and something was going to appear?

42
43 Unidentified,
44 It was actually the whole project, 22 million.



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1
2 President Knapp,
3 So it's just \$15 million more now than we thought it was before? So it's 70% more
4 expensive.

5
6 Hamid Omidvar,
7 What we did, we basically took the square foot of the facility, multiplied it with our dollar
8 per square foot that we use for all the other facilities, escalated to the mid point of
9 construction. And then we also considered some risk factors, unknowns for this project.
10 Things that we don't know at this point; primarily circles around site issues. And we
11 came to that range, the range that we provided for the total project that is somewhat
12 between 36, 37 and \$44 million. All these calculations I must mention were done at the
13 summer which was somewhat at the peak of construction. And since then we know the
14 trend is downward, but then again we are -- we have not even studied the site and have
15 not designed it. So the accuracy of the estimates is equal to the accuracies of other
16 projects at this level.

17
18 President Knapp,
19 Which estimate? The current estimate or the previous estimate?

20
21 Hamid Omidvar,
22 The current estimate is definitely better than the previous estimate.

23
24 President Knapp,
25 Well that's a matter of perspective. I like 22 better than 37.

26
27 Hamid Omidvar,
28 Because it considers two years of what we know for a fact how much the construction
29 costs went up for that reason.

30
31 President Knapp,
32 Okay.

33
34 Councilmember Berliner,
35 Can I ask a clarifying question, Council President?

36
37 President Knapp,
38 Sure.

39
40 Councilmember Berliner,
41 The dollar per square foot that you use for purposes of calculating; it is my
42 understanding that you're using -- I could be wrong, at least at some of the other rec
43 centers, it was \$1,000 a square foot?
44



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1 Hamid Omidvar,

2 I don't have the number here. If it was \$1,000 per square foot, it must total project. It is
3 not construction cost. Construction cost is not \$1,000 per square foot. It circulates
4 around \$300 or less, the pure construction cost.

5
6 Councilmember Berliner,

7 Yes. Because there is confusion out there as to whether or not -- in fact that was the
8 response of community -- the AIM community in particular when we were doing these
9 numbers for the other rec centers was like, my goodness they're using \$1,000 a square
10 foot, and it should be \$300 a square foot. So I'm glad I raised that. Your point is that you
11 don't, in fact, use 1,000.

12
13 Hamid Omidvar,

14 Correct. That is projects you see they have numerous miscellaneous items in them.
15 Libraries, they may have books in them. Fire stations, they may have apparatus in
16 them. So when we talk about the total project cost -- .

17
18 Councilmember Berliner,

19 We hope so.
20

21 Hamid Omidvar,

22 It's a number that is -- includes everything that it's put into the project. The real indicator
23 of the project is really the construction cost. That's a good indication of that project. And
24 those are pretty consistent. But then other numbers come into play that is added into
25 others and whatnot that then fluctuates; and then of course, if it is an out year and how
26 much contingency plays a roll.

27
28 Vice President Andrews,

29 I think the price in this includes the ball fields associated with it as well. It is a 17-acre
30 property, right?

31
32 Hamid Omidvar,

33 Right.
34

35 President Knapp,

36 I want to be care -- I'm not -- it's an important project. I guess my question is that
37 something happened from the time this came over on January 15 to the time the
38 committee had a discussion that increased the cost by \$17 million or \$16 million. I
39 guess that's the part that's intriguing to me is that the Executive recommendation was
40 what had been in there, and somehow, I'm not sure how we got to the additional \$15
41 million in the process. But if the costs were in fact the ball park was \$39 million to \$44
42 million, then it just seems to me that that should have been included in what was sent
43 over in the PDF. Not up to us to, you know, kind of the classic example of, we've
44 reduced the amount of money in the CIP when in fact we just didn't actually put the full



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1 estimates in the CIP. So it looks like we're taking the hit on that one. So I'm just kind of
2 intrigued is all. Councilmember Floreen.

3
4 Councilmember Floreen,

5 Well I just wanted to state the obvious which is it takes us back to our conversation this
6 morning of when we put construction dollars in these projects, and a reminder that there
7 are projects that have been waiting for a long time to come along. This is one example
8 where the numbers change rather dramatically. But it has been in line for gosh I don't
9 know how long, Phil.

10
11 Vice President Andrews,
12 At least 10 years.

13
14 Councilmember Floreen,

15 Yeah, and that's one of the challenges in making this all work. So I just comment that
16 the issue of how we sort this out is not straightforward, but this is the kind of problem
17 you end up with perhaps. Again, I don't know what the answer is, but this is a
18 regrettable reality, I guess. I don't know if it is avoidable and even now, I don't know if
19 those numbers are likely to be accurate in Fiscal Year 11, for example, which is where
20 the bucks start being spent. A couple years from now, who knows?

21
22 President Knapp,
23 Okay.

24
25 Councilmember Elrich,

26 We could revisit this discussion very soon; one of the rec centers about to come up,
27 which we don't want to do.

28
29 President Knapp,
30 No.

31
32 Councilmember Elrich,

33 But I think this is the point. I mean if this rec -- we're going to plan and design this rec
34 center over the next two years. If we intend to build it in the third year, it belongs in the
35 CIP and it belongs in the CIP with the most real numbers possible. And that's true for all
36 of the [inaudible] and the others. If you all have committed to building them, and I've
37 committed to building them, then they need to be inserted in here and then when we get
38 to our reconciliation, all of these columns will add up to more than 300 million. And then
39 we'll get to decide either do we go over 300 million, or which projects stay in. But I really
40 think it's imperative that these numbers show in our CIP, and then we sort it out when
41 we get to the end.

42
43 President Knapp,



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1 And I agree with you. I guess the point I wanted to just raise is there was a lot of
2 conversation when this was transmitted that the CIP only, and especially for county
3 government, only increases by, I think, 1.8%. And that's easy to do if you keep big
4 numbers out. That is my point, I guess.

5
6 Councilmember Elrich,
7 Are you trying to say that we don't get any help for this?

8
9 President Knapp,
10 I didn't say that. I'm just [inaudible].

11
12 Vivian Yao,
13 So the Council approves the committee's recommendation? Okay. The sixth project is
14 North Bethesda Community Recreation Center; the revised PDF at circle 10 of your
15 packet. This ongoing project provides for the design of a 24,000 square foot community
16 recreation center for a recommended total cost of \$3.557 million in design funding only.
17 The department reported to the Council previously that the developer and prime tenant
18 had withdrawn from the project. Since that time, a new developer has been selected
19 and the department with the owner's representative and the new development team late
20 in January 2008. They are beginning working on a mixed-use development and the
21 department anticipates having more detailed discussions of the parcel and conceptual
22 options for a center in the spring or summer of this year. The committee recommended
23 approval of this project as submitted by the County Executive with minor changes to the
24 PDF; one, to reflect a 33,000 net square foot center as described in the Fiscal Year 07-
25 12 CIP, and to reflect a total cost estimate range for the project of \$25 to \$29 million.
26 Councilmember Floreen expressed concern about the project's progress, and requested
27 a review of the status of the project in six months.

28
29 President Knapp,
30 Councilmember Floreen.

31
32 Councilmember Floreen,
33 I just wanted to say I had an informal conversation with the players; it might have been
34 yesterday. And it sounds as if they are redoing the whole concept of the project in a way
35 that might facilitate this moving more rapidly. So confirmed what we heard from the
36 department the other day, and I just wanted to thank them for keeping up-to-date on
37 this, and keeping us posted on where this is going. This is another one of those that's
38 been waiting in the wings for a long time. It was part of a project. This is one of the
39 problems when you ask the private sector to produce a public project; it gets tangled up
40 in the private sector's challenges. So I'm optimistic that this will proceed. And while it's
41 behind North Potomac, it's of that nature in terms of something that's long overdue and
42 been needed for many years, and has been hung up here and there for reasons out of
43 everybody's control. So just wanted to make that comment and it looks like there might



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1 be some creative solutions here, so this is good. I still want to hear about it in six
2 months.

3
4 President Knapp,
5 Okay.

6
7 Vivian Yao,
8 The next project is the Wheaton -- .

9
10 President Knapp,
11 Councilmember -- moving right along.

12
13 Vivian Yao,
14 Wheaton Community Recreation Center Rafferty; the revised PDF is at circle 17. This
15 project provides for the stabilization and renovation design of the Rafferty Center, which
16 was a portion of the former Good Council High School. The center will be used as a
17 second community recreation center to be used in tandem with the existing Wheaton
18 Community Recreation Center. The recommended total cost for the project is \$560,000.
19 There is no six-year total or appropriation request associated with this project because
20 the Council approved design and stabilization funds in February. The committee
21 recommends approving the project as submitted by the Executive and revising the PDF
22 to add text indicating the cost estimate range of \$7 to \$9 million. The next five projects
23 are related to the rehabilitation of the -- .

24
25 President Knapp,
26 Councilmember Leventhal.

27
28 Councilmember Leventhal,
29 Does the Rafferty center have a pool in it?

30
31 Unidentified,
32 No it does not.

33
34 Councilmember Leventhal,
35 Okay, it's a gym?

36
37 Executive Branch staff,
38 It's just a gymnasium, right.

39
40 Vivian Yao,
41 The next five projects are related to the rehabilitation of existing recreation facilities. As
42 background, the approved Fiscal Year 07-12 facility planning project for county
43 government include eight recreation facility rehabilitation projects, including five
44 neighborhood centers, Good Hope, Ross Body, Plum Gar, Scotland and Clare Barton;



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1 two community recreation centers, Upper County and Bower; and one senior center,
2 Schweine House. The Executive's recommended 09-14 CIP proposed one of the eight
3 study rehabilitation projects as a stand-alone project, Plum Gar Neighborhood
4 Recreation Center. The Executive also proposed an umbrella recreation facility
5 modernization project that includes the seven facilities that were studied but not
6 proposed, as stand-alone projects. Councilmembers Berliner, Leventhal, Ervin and
7 Trachtenberg distributed a memo which is at circle 1 of your packet, requesting
8 consideration of three additional projects, Scotland, Ross Body and Good Hope
9 neighborhood recreation centers. So I was going to go into each project individually.
10 The first one is Plum Gar; the revised PDF is at circle 14 of your packet. The project
11 provides for the design of renovation and expansion of Plum Gar to include an
12 expanded lobby, social hall, kitchen, exercise room and additional toilets, at a
13 recommended total cost of \$1.55 million with design to begin in Fiscal Year 10. The
14 committee however recommends expediting the schedule of the project to begin design
15 in Fiscal Year '09 and reflecting the ballpark cost estimate range for the project of \$8 to
16 \$11 million in the text of the PDF. Just so you know, the funding source is GO bonds,
17 but there is a state bond bill before the general assembly for \$250,000 to support this
18 project.

19
20 President Knapp,

21 One question I will ask as we go through the rest of these projects. And I think everyone
22 is generally committed to trying to figure out we fund the community recreation centers.
23 I think there is a question out there as to what that means. And I want to just get a
24 sense from you, Hamid, as to practically, we can put numbers on a piece of paper, but
25 do -- does your department even have the resources to be able to move these things as
26 quickly as we've outlined them here, to do the design, and be able to move something
27 to construction in that type of timeframe and the other projects that already exist out
28 there?

29
30 Hamid Omidvar,

31 We have learned in the past few years how to do those types of things better, so I would
32 say yes, we can do it. It is hard. But we can do it.

33
34 Councilmember Elrich,

35 So in my mind, these ought to be -- .

36
37 President Knapp,

38 We can get a good answer as long as it is the right answer.

39
40 Councilmember Trachtenberg,

41 That is a good answer.

42
43 Councilmember Elrich,



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1 So it seems to me they ought to be moved into the construction line, and that we ought
2 to assign years when we want -- when you anticipate these projects being done, so that
3 we have to figure out how this fits with everything else; otherwise it will not be
4 meaningful. We have got numbers in the text right now. I would suggest using the high
5 end of the numbers and coming up with the best estimates of what years you want them
6 in. So I'll join with the other four who asked for this.

7
8 President Knapp,
9 Okay. Councilmember Floreen.

10
11 Councilmember Floreen,
12 Well, I just wanted to say I think it is important that then we will need the department to
13 help us with plugging in the numbers for the pending applications as well to make sure
14 that this is doable as you have said to make sure -- because there are other projects out
15 there. I think this is -- these are great initiatives and I want to see them done also. And I
16 have supported this from the get-go, in fact, for longer than that. But it does need to
17 work out in terms of the other projects out there where -- because of the way we are
18 placing dollars in the CIP, we might not have had construction money in where we
19 intended to have construction money, and on the things we have already looked at. And
20 that is all I would say. Let's try to be consistent in how we look at the numbers. We'll
21 need your help there.

22
23 President Knapp,
24 [Inaudible].

25
26 Unidentified,
27 We can work with Council staff on PFDs and then I guess Glen will decide how to phase
28 it in here.

29
30 President Knapp,
31 How to present it here.

32
33 Councilmember Floreen,
34 Yeah, that's what we request of Jackie.

35
36 Unidentified,
37 Yeah, we help with PDFs for the rec centers themselves if that's what you need.

38
39 President Knapp,
40 The fact of what we're setting up is kind of a macro list of everything with all your
41 various construction dollars. And at some point we're going to have to work our way
42 through it and say, here are the projects, they get funded.

43
44 Councilmember Floreen,



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1 And things that were already in as well so [inaudible].

2
3 President Knapp,
4 Or keep them in or consciously move them out. Councilmember Berliner.

5
6 Councilmember Berliner,
7 I just want to thank the committee and this Council. I do think it is important that we
8 keep our word on projects of this nature. We gave our word and I think our action today
9 is consistent with that. So I appreciate the support of colleagues.

10
11 President Knapp,
12 I would just urge to be careful, and that we've still got a lot of pieces that have to
13 reconcile. So this is a good step but we have still got to make sure all the pieces fit. So I
14 just want -- I had a conversation with the folks at Action Montgomery last week, and
15 they want a level of definitiveness that I am not sure until we get to reconciliation that
16 we can put all the pieces there yet. So I just want -- I want to manage that expectation,
17 too.

18
19 Councilmember Berliner,
20 I think that they appreciate that this is in play until it is done.

21
22 President Knapp,
23 Okay.

24
25 Vivian Yao,
26 Can I just clarify that the Council wants to see PDFs with the total costs of the project
27 built into the expenditure schedule. And do you need to review it after this?

28
29 President Knapp,
30 We should probably bring them back just to see what it is.

31
32 Vivian Yao,
33 Okay.

34
35 President Knapp,
36 We will end up having to look at the whole package anyway at some point.

37
38 Vivian Yao,
39 So bringing it back at that point is fine. One more question. North Bethesda, I believe, is
40 the other project in this recreation CIP that programs design cost only, and I just want to
41 double check that you are okay with that, or did you also want to program the
42 construction costs in that project?

43
44 Councilmember Floreen,



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1 At least I would like it shown in here on page 11 with construction dollars in 13. I don't
2 know what the intention there was. But I would like to see that -- 12 and 13. And I think
3 that's something that needs to be part of the package. That was really my point for all
4 these other existing facilities as well. It goes to the issue of that -- our internal issue of
5 where you show construction dollars.

6
7 Vivian Yao,

8 So we will develop PDFs then with the construction for ones that don't have it?

9
10 Councilmember Floreen,

11 I think it would be helpful, yeah. Keeping in mind that there are changes that may
12 indeed occur. Yeah.

13
14 Vivian Yao,

15 The next project is Scotland Neighborhood Recreation Center. The revised PDF is at
16 circle 21.

17
18 President Knapp,

19 I will just add, I think with all those just -- you address them all. Yes.

20
21 Vivian Yao,

22 Just go. Okay. Well there's one.

23
24 President Knapp,

25 Go ahead. I think with the community rec centers.

26
27 Vivian Yao,

28 The one is the recreation facility modernization project, which is different than a stand-
29 alone neighborhood recreation center. The revised PDF is at circle 16. This project
30 provides improvements of various systems to address urgent situations in building
31 deficiencies. Although the project is not intended to renovate entire facilities, Executive
32 staff has stated that the project would provide planning monies to address renovation
33 needs of the facilities listed. Basically, they include the seven facilities that were studied
34 but were not included as stand-alone projects. The top three of priority were the Ross
35 Body, Good Hope and Scotland neighborhood recreation centers. The recommended
36 total cost for the projects is \$1.3 million. The request at Fiscal Year 09 appropriation is
37 \$25,000 and \$75,000 for Fiscal Year 10. Funding source is primarily GO bonds, but
38 current revenue for Fiscal Year 09 and 10. The Executive submitted a revised PDF and
39 the committee recommends its approval.

40
41 President Knapp,

42 Okay. Councilmember Berliner.

43
44 Councilmember Berliner,



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1 I just assume the revised PDF takes into account that we are moving forward with the
2 other stand-alone projects, and therefore don't need the modernization if that's the
3 nature. That was the conversation the committee had previously with respect to
4 modernization.

5
6 Councilmember Elrich,
7 And in fact there were sufficient other buildings that would need the renovation money
8 that if we weren't renovating the ones we were rebuilding, that money would easily be
9 used in other community facilities that need the renovation.

10
11 Councilmember Berliner,
12 And am I correct that Clara Barton remains on that list given than we are not moving
13 them forward on in the stand-alone basis?

14
15 Councilmember Elrich,
16 Right.

17
18 Unidentified,
19 Correct.

20
21 Councilmember Elrich,
22 I have one question and it is just in keeping with this -- and it's not specific to the Rec
23 Department, but in keeping with what we just did, I think it would be helpful for all the
24 committees or the staff to kind of assemble what is being added as we go along to the
25 CIP. I haven't seen it.

26
27 President Knapp,
28 To that end, there is a tracking sheet that [inaudible] puts together each week. We are
29 actually going begin each of our work sessions with him reviewing where we stand with
30 that. And ultimately what will be set up, I hope, is almost a big Excel spreadsheet that is
31 effectively going to lay all these pieces out that we will have to work our way through.

32
33 Councilmember Elrich,
34 Right.

35
36 President Knapp,
37 But at the very least, we will have the tracking sheet and begin each of our work
38 sessions with that report so everyone knows the status of where everything is.

39
40 Councilmember Elrich,
41 Sum and total, okay.

42
43 President Knapp,
44 Yep, which is big. Okay.



March 4, 2008

1
2 Vivian Yao,
3 That's it.
4
5 President Knapp,
6 Anything else? Okay. We are adjourned. Thank you all very much for your efforts.
7
8
9